# U.S. PARTICIPATION IN THE INTERNATIONAL ENERGY PROGRAM

## HEARING

BEFORE THE

## COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

## S. 1937

A BILL TO EXTEND THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

FEBRUARY 4, 1982

Publication No. 97-80

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
93-065 O WASHINGTON : 1982

S311-39

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, Jr., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
GORDON J. HUMPHREY, New Hampshire
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
JOHN P. EAST, North Carolina
JOHN HEINZ, Pennsylvania

HENRY M. JACKSON, Washington
J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

MICHAEL D. HATHAWAY, *Staff Director*
CHARLES A. TRABANDT, *Chief Counsel*
D. MICHAEL HARVEY, *Chief Counsel for the Minority*

# CONTENTS


| | Page |
|---|---|
| S. 1937 | 3 |

STATEMENTS

| | |
|---|---|
| Carr, Hon. Ronald G., Deputy Assistant Attorney General, Antitrust Division, Department of Justice | 41 |
| Johnston, Hon. Ernest B., Jr., Acting Assistant Secretary of State for Economic and Business Affairs, Department of State, accompanied by Bill Witting, Office of International Energy Policy | 29 |
| McClure, Hon. James A., a U.S. Senator from the State of Idaho | 1 |
| Metzenbaum, Hon. Howard M., a U.S. Senator from the State of Ohio | 4 |
| Thomas, Hon. Henry E., Assistant Secretary for International Affairs, Department of Energy; accompanied by Craig Bamberger, Assistant General Counsel | 13 |

APPENDIX

| | |
|---|---|
| Responses to additional questions | 71 |

# U.S. PARTICIPATION IN THE INTERNATIONAL ENERGY PROGRAM

THURSDAY, FEBRUARY 4, 1982

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
*Washington, D.C.*

The committee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure and Wetzenbaum.

Also present: Charles A. Trabandt, chief counsel; E. David Doane, counsel; Benjamin S. Cooper, professional staff member for the minority; and James T. Bruce, counsel for the minority.

## OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The hearing will come to order.

This is a hearing on S. 1937, an administration bill that would amend the Energy Policy and Conservation Act by extending the expiration date of section 252 of the act from April 1, 1982, to June 30, 1985. The proposed expiration date is also the expiration date of titles I and II of the Energy Policy and Conservation Act.

The purpose of this hearing is to receive the administration's views on a number of issues relating to the international energy program, including issues concerning U.S. participation in that program. We will also receive testimony on the importance of extending the expiration date of section 252, and how long the extension should be.

S. 1937 has been jointly referred by unanimous consent to both this committee and the Judiciary Committee. It has been agreed that both committees will complete their consideration of the bill by March 10. I have been advised that the Judiciary Committee will hold a hearing on the bill, but the date has not been scheduled.

The Congress has extended the expiration date of section 252 on five previous occasions. Three extensions occurred during 1979, and the remaining two occurred last year, when the date was extended for two 6-month periods, from March 15 to September 30, 1981, and then to April 1 of this year.

The significance of section 252 is that it authorizes U.S. oil companies to participate in the international energy program. That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption. Section 252 also provides a limited defense

against any antitrust suits that may be brought against U.S. oil companies participating in the international energy program. The antitrust defense is limited to actions taken in implementing the allocation and information provisions of the program.

If section 252 is allowed to expire, the antitrust defense would no longer be available. The immediate result would be that U.S. oil companies participating in the international energy program would be compelled to cease their participation. If that should occur, the allocation mechanism of the program could not operate effectively in the event of any serious disruption of oil supplies in the international oil market.

Appearing before the committee this morning are witnesses from the Department of Energy, the State Department, and the Department of Justice. It would be my plan to hear the testimony of all three witnesses before proceeding with questions. We will first hear from Mr. Henry Thomas, the Assistant Secretary of Energy for International Affairs.

[The text of S. 1937 follows:]

II

97TH CONGRESS
1ST SESSION

# S. 1937

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 10 (legislative day, NOVEMBER 30), 1981

Mr. MCCLURE (by request) introduced the following bill; which was read twice and jointly referred by unanimous consent to the Committee on Energy and Natural Resources and to the Committee on the Judiciary, with the proviso that both committees shall report the bill on or before March 10, 1982, or both committees, or either one, having failed to report the bill, shall be thereafter discharged from further consideration thereof and the bill shall thereby be placed on the calendar

---

# A BILL

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "April 1, 1982", and inserting in its place "June 30, 1985".

The CHAIRMAN. Before commencing that, Senator Metzenbaum has a statement.

Senator METZENBAUM. I do indeed.

## STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. First, Mr. Chairman, let me say I'm disappointed that the witness' statements were not made available to us 24 hours in advance, as provided for in the rules of the committee. When I receive a statement at 5 o'clock in the afternoon, it makes it impossible to be able to adequately inquire of the witnesses. I didn't even know it was at my office.

There is nothing we can do to remedy the situation with respect to these witnesses today, but I really would appreciate it if the staff would make it a point to get the witnesses in the future to make their statements available in accordance with the committee's rules.

The CHAIRMAN. Senator, I understand your concern. I've often felt the same concern as we went into a hearing and the statements oftentimes weren't even available the preceding day. Oftentimes they come in the morning of the hearing. The rules do require that they be available 24 hours prior to the day of the hearing, and I will ask staff to remind those that have been invited to testify that it would be appreciated by all members of the committee, including the chairman, if they could do that.

Senator METZENBAUM. Mr. Chairman, let me say I'm very pleased that the committee is holding this hearing today on the administration bill that would extend our involvement in the IEA by continuing the antitrust exemption for the oil companies participating in the IEA agreement. Now I'm a little disturbed about this entire matter. I have raised this question before, and it really isn't only the antitrust issue. It's a basic question that properly belongs before this committee, and that is: "Why are we in this thing? What does it do for our country?"

I know what it does for other countries, but what does it do for our country? And this issue has developed to a point where my colleagues have interpreted it as raising a question about the oil companies. Well as a matter of fact, the issue is not the oil companies. The issue is my own Government.

I went to the IEA meeting. I heard my country lambasted by the other countries which participated in that meeting. I know that France doesn't participate. It thumbs its nose at us. It is my opinion that this particular program, which originally was conceived by Henry Kissinger as a consumer organization, hasn't worked that way, and there isn't any logical reason to believe that it's going to work that way.

Now I have no doubt in my mind, Mr. Chairman, that if you support this extension it will have the votes to pass. But I am raising a question with you. You and I oftentimes differ on issues such as deregulation of oil prices, deregulation of gas prices—issues where perhaps the oil producers are on one side and consumers are on the other.

This, however, is not that kind of an issue. This is an issue of national scope. And I seriously question whether it has any value to my Nation. Now I'm not the only one that came to that conclusion. The GAO has come to that conclusion. The Congressional Research Service has come to that conclusion. The Department of Energy has come to that conclusion. And I think, therefore, regardless of what these gentlemen say today, and I'm interested in what they have to say, but I don't believe this has any validity. I think that our Nation is making a mistake.

If I thought it was right for us as a country, even if it wasn't good for the consumer, I would be willing to withdraw my objection. But I don't believe that. I believe it's wrong for the country. In the one instance there was some effort made to use the IEA unofficially. There was a voluntary agreement to cut back consumption 5 percent. Almost every single nation in the world violated the agreement except our Nation.

We're a producing country as well as a consuming country, and it is my contention that the IEA is good for everybody except the U.S.A. Even if it were working, I doubt that it would have any value to our Nation. I doubt, furthermore, that the IEA can effectively allocate world oil supplies during a severe shortage. I doubt that the United States could fulfill its emergency obligations under IEA without absolutely wreaking havoc domestically, especially with this administration's attitudes toward emergency preparedness.

What an absurdity! Join in an allocation system internationally, and then don't have an allocation system domestically! How stupid, how absurd have we become?

Perhaps most importantly, I doubt the wisdom of providing the antitrust defense. The antitrust defense is a detail in the overall package. Without it there is probably no IEA. Allowing the oil companies to operate jointly in the international oil market has tremendous implications for the enforcement of our antitrust laws. But those aspects of the matter, I believe, properly belong in the Judiciary Committee.

What I question in this committee is the policy decision to support our further participation in the IEA. I don't think the American people have benefited from their participation. In fact, I'm positive they haven't. And I don't think they'll benefit in the future. I hope that today's witnesses won't give us gobbledygook. I don't know what you've said in the statements. I haven't had a chance to read them. I'm not interested in the generalities. I'm not interested in the legalistics. I'm interested in knowing what about this program is good for my country. That is the only issue before this committee today.

I want to know what is our country going to get from our participation in IEA? What do we gain by permitting major oil companies to collaborate in sizing up and shaping the world oil markets free of any liability whatsoever under our antitrust laws?

Now the worst part about this is that both sides of the aisle supports our participation in the IEA. We've got to do it, but nobody has ever told me why we have to do it. What is good about this for my country?

Now I'm not alone, as I said before, in my reservations about the IEA. The GAO released a major comprehensive study of the IEA in September of last year. Its conclusions were devastating. First, the study concluded that the emergency sharing system, the core element of the IEA's allocation program, probably won't work because of data error, lack of a comprehensive price dispute mechanism, and a misleading representation of emergency oil stocks.

GAO stated that they had, "serious reservations about the system's workability."

GAO is not alone in its conclusion. Congressional Research Service came to a similar conclusion in an October 1980 report, and the U.S. Department of Energy, the agency coming to Congress asking for an extension of the authority for IEA reached a similar conclusion itself in March 1981. It is no wonder that the emergency sharing system has never been triggered. Member countries are most likely afraid to trigger it because that would demonstrate the stark reality, the emergency-sharing system, the linchpin of the IEA, the rationale for its existence just won't work.

Now second, GAO concluded that the IEA does not decrease member countries vulnerability to oil supply disruptions as was shown by the recent international oil crises of 1979 and 1980.

Third, the GAO concluded that in virtually every circumstance, the United States would end up exporting some of its oil.

Isn't it time that the United States quit being the patsy for the rest of the world? Isn't it a reality that we're all aware of, that England just recently thumbed its nose at us? France has done the same thing time and time again. West Germany has done the same thing. Everyone has turned its back on the United States, but we're still the patsy. We say, "Sure, we're good guys. You run out of oil, we'll take care of you. Don't worry. We're happy to help you any way we can."

Only if there was a repeat of something like the 1973 embargo, an eventuality that most experts don't believe likely, will the American consumer receive any oil supplies from the other participating IEA countries. To me, that is one sided. Again, I raise the question why is this good for my country? Why is this good for the American consumer? What are we getting in return for a commitment of this immense magnitude.

This, Mr. Chairman, I think is a difficult question. You and I will have a different posture with respect to many issues. I'm certain that neither of us has any lesser dedication to our own Nation's interest and the people that we represent. Therefore, we must have satisfactory answers to these questions before we vote on the next extension of the antitrust defense and the other authorizing provisions for IEA.

I don't have any doubt about it. You can get a handful of proxies from the members on the majority side and get a handful from the members over here on this side, and this thing will fly through. You are the determining factor. There is nobody else. That crowd isn't the determining factor. You, are the determining factor, Mr. Chairman, and you are reasonable and you are logical and you are intelligent. I only ask you, and if you come to the conclusion this doesn't serve our country's interest, then it won't pass. If you come to a contrary conclusion, you've got the proxies without even

asking for them to pass the bill out of the committee. But if the only gainers are the foreign nations of the world, not the oil countries, not the producers, but the other countries of the world, then I think we ought to very carefully think about the commitments that we've made.

Not only would American consumers lose net oil supplies in most emergency scenarios, but according to the GAO, it is unlikely that we could respond domestically to the disruptions caused by our having to export oil abroad. This is especially so because this administration endorses no emergency allocation system for distributing oil domestically in terms of an emergency.

The President wants to let price be the allocation. I'm not here at this moment challenging the rightness or wrongness of the President's position, but I say if you aren't going to allocate oil domestically, why the hell are we allocating oil on the international market? You and I know what that means. It means that the other countries are going to get our Nation's oil and it means that the price of oil to people in this country will rise dramatically and with no gain to our country at all. It means that many people in this country will be paying far more for the oil that they use and that the problem that they presently have in paying their heating bills and their gasoline bills will be an even greater one.

Not only would our participation in IEA cause us to export oil during most emergency situations, we don't even have the mechanism for coping with the disruptions that would result here at home. And apparently it is not enough that the IEA has been a failure so far in insulating member countries from international supply disruptions. Now, according to the GAO, the IEA is trying to move in a direction not originally envisioned by Congress when it initially authorized our Government's participation in IEA, and provided the antitrust defense to participating oil companies.

Now IEA staff wanted to become a manager of international oil markets in nonemergency situations. And I think that that itself, Mr. Chairman, is significant. That now that IEA is being pushed to become a manager of international oil markets in nonemergency situations, I don't like it. And I don't think that any of us in this room ought to like it, regardless of what our political philosophy is.

I repeat: According to the GAO, IEA is attempting to move into areas not authorized under current law, and I think we need to examine this new direction very, very closely. And I would certainly expect our witnesses today to address themselves to that aspect of the question. If we aren't getting anything worthwhile out of the current system in exchange for giving the oil companies a significant antitrust defense, in return for giving the other nations of the world a call upon our oil, then why should we bother IEA's mandate?

If the U.S. consumers stand to lose as a result of emergency sharing system allocations, how would they fare under these nonemergency measures? What justification is there for permitting IEA to head in this direction?

We need answers to all these questions at today's hearing.

Now I believe this is very significant. According to the GAO study the public accountability mechanism as set up by IEA to provide a check on oil company activities, has been a failure. Although

IEA required the transcripts of industry advisory meetings be kept and made available to the public, the State Department routinely classifies so much of these transcripts that they are useless to the public. GAO study says unless this classification problem is addressed, the transcripts appearing in the public reading room will continue to represent an incomplete record of what transpired at the meetings.

Mr. Chairman, I'm trying to say what I have long felt—that the State Department was hardly the body to be charged with the responsibility in these areas. Now we are aware of the fact, according to GAO, that the information that was to be made available to the public has been classified by the State Department and therefore not available to the public.

Mr. Chairman, this is a serious defect not contemplated by those who originally agreed to provide an antitrust defense to the oil companies. Transcripts of industry IEA meetings were to be made available to the public so that potential victims of industry anticompetitive behavior could monitor oil company involvement in IEA. But the GAO tells us those transcripts are worthless for monitoring purposes. That is an indication of irresponsibility and failure to comply with the law on the part of our own State Department.

This is a glaring problem and must be rectified before we are again asked to extend the defense. So there not be any misinterpretation, this Senator is saying that the State Department has been remiss in its responsibilities under this administration.

Let me make it clear that it was equally remiss under previous administrations which came into power under a totally different banner. We must be concerned about who is making our international energy policy decisions, regardless of party.

According to the GAO report in the current administration the Office of Management and Budget plays a key role in preparing our Government's position at IEA administerial meetings. If David Stockman or his representative is deciding our international energy policy, I want to know why.

First of all I thought our policy on energy matters was to be set by the Department of Energy. Then under this law and under the provisions of it, it's being set by the State Department, and then even that isn't the case any more. It's now being set by Mr. David Stockman at the Office of Management and Budget. I want to know how he or his representatives arrive at their policy decisions. I want to know if he knows what he's talking about. His expertise is hardly in the area of international energy policy considerations. What factors are weighed at OMB? What extent do they take into consideration the impact of their decisions on the American people?

Mr. Chairman, there are too many unanswered questions about our participation in IEA to simply continue the status quo for another 5 years. I hope this committee and the Judiciary Committee will thoroughly review our involvement in this agency. I hope both committees will consider carefully the implications that our IEA participation has for our country. This is not a matter we can afford to dismiss lightly.

Mr. Chairman, I know that I've made a lengthy statement. I didn't make it to the audience. I made it to you, because I honestly

believe that there is no reason for you to be supporting this extension unless these men or others who are spokespersons for our Government can convince us that this extension is in the best interest of our Nation. It isn't a question of oil companies. I can understand the antitrust exemption if we're going to participate. But I don't believe we ought to be in this program any further and I would hope that you would honestly give this matter some very serious consideration. I thank you.

The CHAIRMAN. Thank you, Senator.

Mr. Thomas?

**STATEMENT OF HON. HENRY E. THOMAS, ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF ENERGY; ACCOMPANIED BY CRAIG BAMBERGER, ASSISTANT GENERAL COUNSEL**

Mr. THOMAS. Thank you Mr. Chairman, members of the committee.

Permit me first, Mr. Chairman, to introduce if I may Mr. Craig Bamberger to my right, Assistant General Counsel with the Department of Energy. He will be prepared to respond to legal questions dealing with this matter before the committee today.

I appreciate the opportunity to appear before you today to testify in support of an extension of section 252 of the Energy Policy and Conservation Act (EPCA) and to take a few minutes while doing so to review for the committee important developments and decisions in the International Energy Agency over the last months.

Mr. Chairman, with your permission I will summarize my testimony with the full text provided for the record.

The CHAIRMAN. The entire text will be placed in the record in full. You may proceed as you desire.

Mr. THOMAS. The Congress has enacted five temporary extensions of section 252, as you indicated, which is currently scheduled to expire April 1, 1982. The administration believes it is essential that section 252 remain in effect so that U.S. oil companies may continue to participate in the implementation of the 1974 agreement on an international energy program, and in the activities and programs of the International Energy Agency, which carries out the IEP goals. We need legislation to extend section 252 on a more permanent basis.

The administration is requesting an extension to June 30, 1985. This date will synchronize the expiration of section 252 with the expiration of titles I and II of EPCA and will insure continuity of U.S. reporting company participation in the IEP. It will allow the companies to take full account, in their long range plans and goals, of the demands of such participation on their time and resources. A more limited extension will only lead to unwarranted questioning by our allies as to the strength of this commitment and of our support for the IEA programs, which remain the best available formal means for coordinating the international response to disruptions.

While conservation, increased oil exploration and development, and the expanded uses of other fuels have reduced oil import levels and diversified their sources, major vulnerabilities remain. In particular, as reliance on OPEC producers has declined, a single pro-

ducer, Saudi Arabia, has emerged more strongly than ever, as a dominant supplier.

Saudi Arabian oil now provides 20 percent of all oil imported into the United States, and about 7 percent of our total oil consumption. The IEA, overall, is even more vulnerable. Saudi Arabia provides upward of a quarter of all IEA oil imports, 20 percent of their consumption. Supply losses of this magnitude could have seriously damaging economic, financial and political repercussions which could only be moderated through the full cooperation of oil consuming nations.

The administration remains committed to the IEP and to its key features, the oil market information system, the framework for consultations with the oil companies, the emergency oil sharing system, and the program for long-term cooperation.

The emergency sharing system has been designed to operate primarily through voluntary oil company supply actions. Voluntary international oil movements are preferred because they are less intrusive, maximize reliance on the market, and avoid having the government direct the movement of oil cargoes. This process also takes advantage of the oil industry's expertise and its ability to redirect oil movements smoothly among destinations at the least cost. In these ways company participation in the IEP reinforces market mechanisms.

The IEP system is still evolving. Its member countries recognize that it is not a flawless system.

The viability of the IEP is critically dependent on the advice, expertise and participation of the oil companies. At present, 21 U.S. oil companies, including both major and independent oil companies, are reporting company participants.

Section 252 provides a limited antitrust defense for U.S. oil companies without which they would not participate in the activities of the IEA. This defense is contingent upon the oil companies' compliance with procedures developed by the Department of Energy in conjunction with the Department of Justice, the Federal Trade Commission and the Department of State. These procedures are embodied in the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," adopted on March 21, 1976. They include public notification of industry meetings convened to advise the IEA, U.S. Government monitoring and transcription of industry meetings, filing with DOE of a complete record of IEA related inter-company communications, and prior U.S. Government approval for any submission of proprietary company data to the IEA prior to activation of the IEA Sharing System.

The Department of Energy, the Department of Justice and the Federal Trade Commission have monitored industry participation in the IEA closely and no anticompetitive effects have ever been identified by any of them by reason of industry activity under the voluntary agreement.

The IEA's emergency oil sharing system was designed to handle major oil shortfalls to the IEA or individual members. A major shortfall is one which is greater than 7 percent of normal supplies; 47 IEA-designated reporting companies, of which 21 are U.S.-based

companies, play an essential role in the operation and logistical aspects of this system.

In May 1981, the U.S. Government published for comment a draft "Plan of Action to Implement the International Energy Program," which would implement the section 252 antitrust defense with respect to U.S. company activities under the emergency sharing system. The public comments submitted in response have been analyzed, and the key issues presented are now undergoing interagency consideration, preparatory to publication of a new draft "Plan of Action" for consideration by the companies. Ultimate adoption of a final "Plan of Action" requires the concurrence of the Attorney General.

Since the IEA was established in November 1974, the oil companies, through these groups, have advised the IEA on emergency oil sharing questions, including the development of emergency information systems and procedures to implement the allocation of oil supplies in an emergency, and have participated in three tests of the IEA system. The companies provide information during allocation system tests, and during actual emergencies would provide comparable information on production, inventories, exports, and imports, that is essential to a determination of allocation rights and obligations.

The physical distribution of supplies needed to effect such allocation, should the system be triggered, would be accomplished largely through the voluntary actions of the companies, either through adjustments to their own supply schedules or through voluntary supply or receive offers coordinated through the IEA and the industry supply advisary group (ISAG).

The need for the continued advice and participation of the oil companies in the IEA is intensified in light of the changing structure of the oil market and its inherent volatility. Both require close consultation between the IEA and the industry to ensure that the IEA countries are prepared to meet every contingency and to adapt and improve their emergency procedures as required.

In addition, the U.S. companies counseled the IEA governing board during the 1981 deliberations on the feasibility of various proposals debated within the IEA designed to deal with subtrigger supply problems. The appropriate response to these problems has been under consideration and debate in the IEA since the onset of the 1979–80 oil market disturbances and was finally brought to a successful decision at the last meeting of the IEA governing board on December 10, 1981.

The IEA was conceived in a period of major change in the structure and participation in the international oil market. It thus is not surprising that national philosophies regarding the IEA and the role of the agency itself have evolved correspondingly. Indeed, it is only through recognition of and accommodation to those changes that the IEA can continue to work toward the basic objectives for which it was conceived.

The U.S. Government will continue to work diligently to assure that the direction of this evolution is compatible with our national interest.

The oil market today is greatly different from that which existed only 2 or 3 years ago. Through the more efficient use of oil and the

development of production capabilities outside of OPEC, sufficient unused capacity has been restored to provide a cushion against the more moderate forms of oil supply disruption that have kept the world off balance for more than a decade. Additionally, supply sources are now more highly diversified so that the number of potential incidents which could result in serious supply interruptions has been reduced.

We can anticipate that supply interruptions will occur, as they have in the past. If they are to be resolved through the market mechanism, there must be a full understanding of the market and the forces affecting upon it.

Market understanding can best be achieved through consistent monitoring and through consultations with those who actively participate in the marketplace.

An upcoming test of the emergency sharing system scheduled for the spring of 1983 will provide another occasion for identifying any mechanical difficulties which may remain.

The IEP system is not perfect but reflects a carefully constructed compromise which recognized the complexity of the oil market, the diversity of national energy structures, policies and priorities and political realities. The viability of the IEP is critically dependent on the political will of the participating countries to adhere to international energy policies that serve their mutual interests. The U.S. administration supports the IEP because the program provides a basis for monitoring possible disruptions and reducing unnecessary conflicts among key consuming nations in dealing with severe disruptions.

To this end it is the responsibility of the U.S. Government to provide a set of conditions under which our companies can participate in the program. I therefore solicit Mr. Chairman, your support in extending the antitrust defense so that this participation and the viability of the U.S. commitment is upheld.

Thank you Mr. Chairman. I'll be pleased to respond to questions as you deem appropriate.

[The prepared statement of Mr. Thomas follows:]

STATEMENT OF HON. HENRY E. THOMAS, ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF ENERGY

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to testify in support of an extension of section 252 of the Energy Policy and Conservation Act (EPCA) and to take a few minutes while doing so to review for the Committee important developments and decisions in the International Energy Agency over the last months.

The Congress has enacted five temporary extensions of section 252, which is currently scheduled to expire on April 1, 1982. The Administration believes it is essential that section 252 remain in effect so that U.S. oil companies may continue to participate in the implementation of the 1974 Agreement on an International Energy Program (IEP), and in the activities and programs of the International Energy Agency (IEA) which carries out the IEP goals.

We need legislation to extend section 252 on a more permanent basis. The Administration is requesting an extension to June 30, 1985. This date will synchronize the expiration of section 252 with the expiration of Titles I and II of EPCA and will ensure continuity of U.S. Reporting Company participation in the IEP. It will allow the companies to take full account, in their long range plans and goals, of the demands of such participation on their time and resources. A more limited extension will only lead to unwarranted questioning by our allies as to the strength of this commitment and of our support for the IEA programs which remain the best available formal means for coordinating the international response to disruptions.

95-065 O—82——3

The United States and other member nations of the IEA have made marked progress in the past 3 years in increasing the efficiency with which we use energy, hence in reducing our dependence on imported oil. While conservation, increased oil exploration and development and the expanded uses of other fuels have reduced oil import levels and diversified their sources, major vulnerabilities remain. In particular, as reliance on OPEC producers has declined, a single producer, Saudi Arabia, has emerged more strongly than ever, as a dominant supplier. Saudi Arabian oil now provides 20 percent of all oil imported into the United States, and about 7 percent of our total oil consumption. The IEA, overall, is even more vulnerable. Saudi Arabia provides upward of a quarter of all IEA oil imports, 20 percent of consumption. Supply losses of this magnitude could have seriously damaging economic, financial and political repercussions which could only be moderated through the full cooperation of oil consuming nations.

The Administration, however, remains committed to the IEP and to its key features, the oil market information system, the framework for consultations with the oil companies, the Emergency Oil Sharing System, and the program for long-term cooperation.

The Emergency Sharing System has been designed to operate primarily through voluntary oil company supply actions. Voluntary international oil movements are preferred because they are less intrusive, maximize reliance on the market, and avoid having the government direct the movement of oil cargoes. This process also takes advantage of the oil industry's expertise and its ability to redirect oil movements smoothly among destinations at the least cost. In these ways company participation in the IEP reinforces market mechanisms.

The IEP system is still evolving. Its member countries recognize that it is not a flawless system, and they will continue to improve and refine it to meet changing market conditions.

The viability of the IEP is critically dependent on the advice, expertise and participation of the oil companies. At present, 21 U.S. oil companies, including both major and independent oil companies, are Reporting Company participants.

As you know, section 252 provides a limited antitrust defense for U.S. oil companies without which they would not participate in the activities of the IEA. This defense is contingent upon the oil companies' compliance with procedures developed by the Department of Energy in conjunction with the Department of Justice, the Federal Trade Commission and the Department of State. These procedures are embodied in the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," adopted

on March 21, 1976. They include public notification of industry meetings convened to advise the IEA, U.S. Government monitoring and transcription of industry meetings, filing with DOE of a complete record of IEA related inter-company communications, and prior U.S. Government approval for any submission of proprietary company data to the IEA prior to activation of the IEA Sharing System. The Department of Energy, the Department of Justice and the Federal Trade Commission have monitored industry participation in the IEA closely and no anti-competitive effects have ever been identified by any of them by reason of industry activity under the Voluntary Agreement.

The IEA's Emergency Oil Sharing System was designed to handle major oil shortfalls to the IEA or individual members. A major shortfall is one which is greater than 7 percent of normal supplies. Forty-seven IEA-designated Reporting Companies, of which 21 are U.S.-based companies, play an essential role in the operation and logistical aspects of this system.

To facilitate the participation of U.S. companies in emergency sharing, in May 1981, the U.S. Government published for comment a draft "Plan of Action to Implement the International Energy Program," which would implement the section 252 antitrust defense with respect to U.S. company activities under the Emergency Sharing System. The public comments submitted in response have been analyzed, and the key issues presented are now undergoing interagency consideration, preparatory to publication of a new

draft "Plan of Action" for consideration by the companies. Ultimate adoption of a final "Plan of Action" requires the concurrence of the Attorney General.

The IEA has established a number of different oil industry groups whose members are chosen from among the Reporting Companies to assist the IEA in carrying out its emergency planning and allocation functions.

The Industry Advisory Board (IAB), of which seven out of 17 companies represented are U.S.-based, provides ongoing technical advice to the IEA on emergency oil issues and on the nature of supply difficulties, and participates in the development of procedures to improve and implement the IEP and in tests of the Emergency Sharing System.

The Industry Supply Advisory Group (ISAG) is comprised of oil supply experts chosen from the participating companies. It was established to assist the IEA in carrying out the allocation program in the event of an emergency, and in that capacity it would provide technical assistance on supply and logistics to the IEA, match voluntary offers, and communicate with all the Reporting Companies and with each IEA government's National Emergency Sharing Organization in order to ensure efficient operation of the Sharing System. Ten of the 20 companies with representatives on the ISAG are U.S.-based.

Since the IEA was established in November 1974, the oil companies, through these groups, have advised the IEA on emergency oil sharing questions including the development of emergency information systems and procedures to implement the allocation of oil supplies in an emergency, and have participated in three tests of the IEA system. The companies provide information during allocation system tests, and during actual emergencies would provide comparable information on production, inventories, exports, and imports, that is essential to a determination of allocation rights and obligations. The physical distribution of supplies needed to effect such allocation should the system be triggered would be accomplished largely through the voluntary actions of the companies, either through adjustments to their own supply schedules or through voluntary supply or receive offers coordinated through the IEA and the ISAG.

A related IEP program is the oil market information system aimed at enhancing the IEA countries' understanding of the international oil market and thus enabling them to play a more effective role in detecting and dealing with oil supply problems and oil market issues of potential concern. Another group of Reporting Companies, the Industry Working Party (IWP), again heavily comprised of U.S.-based companies, provides technical expertise to the IEA in this endeavor.

The utility of the IEP and of oil company participation therein in contexts other than actual oil sharing was demonstrated over the

past 2 years when oil industry expertise and technical assistance were sought to determine the causes, extent and effects of various supply difficulties which had not become large enough to trigger the Emergency Sharing System. The Reporting Companies were frequently consulted during 1979 through 1981 as supply difficulties arose from the Iranian Revolution in early 1979 and the Iran-Iraq war in the fall of 1980 and as certain IEA countries sought to deal with such "sub-trigger" situations.

The need for the continued advice and participation of the oil companies in the IEA is intensified in light of the changing structure of the oil market and its inherent volatility. Both require close consultation between the IEA and the industry to ensure that the IEA countries are prepared to meet every contingency and to adapt and improve their emergency procedures as required.

The contribution of the oil companies to this process is apparent from a quick review of their role in the deliberations and activities of the IEA over the last year and a half. During this time, the companies operating under the Voluntary Agreement:

- assisted IEA countries in dealing with the Iran/Iraq conflict by providing monthly supply data and supply forecasts to the IEA, reviewing the IEA's forecasts, and critiquing the supply/demand situation at IEA meetings;

- participated in the Third Allocation Systems Test of the IEA and thereby increased the effectiveness of IEA Governments in implementing the emergency system;

- helped develop a non-emergency oil monitoring system which will allow IEA Governments to effectively monitor oil market developments and assess the impact of potential disruptions;

- assisted in the development of a Dispute Settlement Centre designed to provide procedures for the arbitration of disputes arising from oil supply transactions under the IEP; and

- addressed a number of other technical issues affecting the operation of the Emergency Sharing System and the changing structure of the oil market and nature of oil supply disruptions.

In addition, the U.S. companies counseled the IEA Governing Board during the 1981 deliberations on the feasibility of various proposals debated within the IEA designed to deal with "sub-trigger" supply problems. The appropriate response to these problems has been under consideration and debate in the IEA since the onset of the 1979-1980 oil market disturbances and was finally brought to a successful decision at the last meeting of the IEA Governing Board on December 10, 1981.

During the 1979-1980 period IEA countries suffered two oil shortfalls accompanied by large oil price increases. IEA countries became increasingly concerned during this time frame over the economic damage and disruptive effects of such shortfalls, and tested and debated various means of limiting these adverse effects. The measures employed by IEA governments during 1979 and 1980 ranged from a collective oil demand restraint commitment adopted in June of 1979 in response to the oil curtailment following the Iranian Revolution, to the more direct approach of voluntary oil import guidelines agreed to in May 1980 and, in the aftermath of the Iran-Iraq war in the fall of 1980, to a variety of possible measures including enhanced production, stockdraw, fuel switching, improved energy efficiency, and a procedure for consulting with the IEA and the oil companies over the causes of oil imbalances among countries. Several countries which had been particularly adversely affected by supply shortages during this period, notably Italy and Turkey, began to press for a more formal system to deal with sub-trigger disturbances. Italy and France (through the European Community) made proposals for jointly owned and managed stock pools to be drawn on for this purpose. Such formal mechanisms were strongly opposed by the U.S., which argued for high oil stocks to prepare for disruptions, the removal of market impediments, and a flexible approach to future problems.

95-065 O—82——4

This viewpoint was vigorously espoused by the United States, Germany and the UK, among others, throughout the IEA deliberations conducted during 1981 to determine a common IEA approach to future sub-trigger problems. The United States was gratified that the IEA decision finally adopted in December of last year recognized the importance of primary reliance on the market in dealing with such situations and thereby rejected formal interventionist mechanisms.

The IEA's December "Decision on Preparation for Future Supply Disruptions" has several primary features:

- Recognition that allowing market forces to operate and strengthening them will greatly counteract the effects of supply disruptions;
- Agreement among IEA countries that they will meet promptly to consider and decide on what action, if any, is necessary to supplement market forces;
- An understanding that such actions must be consistent with national laws and the IEP;
- Agreement that IEA governments will individually consult with their oil companies concerning the nature of this supplementary action;
- Establishment of an oil market monitoring system which will allow the IEA to conduct an accurate and timely assessment of the nature and probable impact of supply disruptions; and

- Decision to further study various aspects of oil stocks including the general adequacy of IEA stock levels and the need to maintain stock levels in spite of temporary declines in oil imports.

Pending completion of the latter study, IEA countries agreed at the same meeting to make efforts not to let oil stocks fall below the equivalent of 90 days of 1980 net imports except where oil consumption has declined because of clearly-established long-term structural change.

In summary, it remains our policy not to establish a formal system for sub-trigger disturbances and instead to rely on those actions agreed upon in December 1981.

The IEA was conceived in a period of major change in the structure of and participation in the international oil market. It thus is not surprising that national philosophies regarding the IEA, and the role of the Agency itself, have evolved correspondingly. Indeed, it is only through recognition of and accommodation to those changes that the IEA can continue to work toward the basic objectives for which it was conceived. The U.S. Government will continue to work diligently to assure that the direction of this evolution is compatible with our national interest.

The oil market today is greatly different from that which existed only 2 or 3 years ago. Through the more efficient use of oil and the development of production capabilities outside of OPEC, sufficient unused capacity has been restored to provide a cushion against the more moderate forms of oil supply disruption which have kept the

world off balance for more than a decade. Additionally, supply sources are now more highly diversified so that the number of potential incidents which could result in serious supply interruptions has been reduced.

We can anticipate that supply interruptions will occur, as they have in the past. If they are to be resolved through the market mechanism, there must be a full understanding of the market and the forces affecting upon it.

Market understanding can best be achieved through consistent monitoring and through consultations with those who actively participate in the marketplace. This is what the IEA decision of December 1981 provides. It also explains our great sense of urgency in assuring that U.S. companies can continue their valued participation in this process.

An upcoming test of the Emergency Sharing System scheduled for the spring of 1983 will provide another occasion for identifying any mechanical difficulties which may remain.

The IEP system is not perfect but reflects a carefully constructed compromise which recognized the complexity of the oil market, the diversity of national energy structures, policies and priorities and political realities. The viability of the IEP is critically dependent on the political will of the participating countries to adhere to international enegy policies which serve their mutual

interests. The U.S. Administration supports the IEP because the Program provides a basis for monitoring possible disruptions and reducing unnecessary conflicts among key consuming nations in dealing with severe disruptions.

To this end it is the responsibility of the U.S. Government to provide a set of conditions under which our companies can participate in the Program. I therefore solicit your support in extending the antitrust defense so that this participation and the viability of the U.S. commitment is upheld.

The CHAIRMAN. Thank you. We'll hear next from Mr. Ernest B. Johnston, Jr., Deputy Assistant Secretary for Economic and Business Affairs, Department of State.

**STATEMENT OF HON. ERNEST B. JOHNSTON, JR., ACTING ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY BILL WITTING, OFFICE OF INTERNATIONAL ENERGY POLICY**

Mr. JOHNSTON. It is my welcome duty to present the views of the Department of State on S. 1937. I too will submit my statement for the record and summarize it here. I'd like to introduce Mr. Bill Witting of the Office of International Energy Policy of the State Department who is here with me today. I am sorry that Bob Hormats, the Assistant Secretary, was not able to be here, but unfortunately he is out of the country.

If we allow section 252 to expire, U.S. oil companies will have no choice but to terminate their participation in the International Energy Agency's oil supply crisis response system, a system which serves a variety of U.S. national interests and which cannot function without U.S. company participation.

The administration has affirmed its support for this system and for the IEA as a forum in which we can consult with our allies in the industrialized world concerning energy issues. We therefore strongly support enactment of this bill.

We have heard questions and doubts about various aspects of IEA programs and of its charter, the agreement on an international energy program. Whenever someone identifies a problem we engage our partners in an effort to resolve it. Though we would certainly not maintain that the system has been perfected, we feel that we have made steady progress in these efforts. In our view none of the questions which we have heard raised about IEA activities cast into doubt the fundamental benefits of U.S. participation in that body.

It might be useful to review what those benefits are. I emphasize four. First, the IEA emergency system provides an insurance policy for the American people against economic harm from an interruption of oil imports. Under the terms of the IEA's emergency oil allocation system, we have the guarantee of our IEA partners that, in a major oil crisis, they will assure that the United States does not absorb a greater proportion of an oil supply shortfall than that which they themselves are absorbing. For this assurance, we have in turn made a similar pledge.

To the extent that the existence of this system contributes to the maintenance of calm and orderly markets for oil in a crisis, it may also help to alleviate the harmful effects of that crisis. Twice in the past decade, even relatively mild disruptions in oil supplies have triggered a rapid escalation in oil prices, which in turn have led to harmful increases in inflation and reductions in industrial output. We believe that maintenance of larger reserve supplies by individual oil importers and consumers will help to reduce market pressures in future minor disruptions as it did a year ago at the outbreak of the Iran-Iraq war. It is doubtful that such stocks will ever be large enough to prevent price increases in a severe disruption.

In such circumstances activation of the IEA emergency system would be a supplemental action providing reassurance.

The second benefit of U.S. participation in the IEA is in the area of our external national security interests. It has long been an axiom of American security doctrine that the safety of the United States is inextricably linked to that of its allies in Western Europe and the Far East.

Over the years we've made enormous sacrifices for and investments in the cohesion and solidity of those alliances. U.S. participation in the IEA and the U.S. commitment to sharing oil with our partners is one of the smaller of those investments.

Most of our allies are much more heavily dependent on imports than we to satisfy critical energy needs. The threat of interruption of those supplies is a serious one to them, and one which might be used to blackmail or harm them in ways harmful to alliance interests. The United States could not stand idly by while a producing country was using its oil exports as a political weapon against a consuming country.

The third major benefit of participation in the IEA is the opportunity which it provides for consultation and cooperation between governments and oil companies. Prior to the 1973–74 oil crisis, international oil companies went about the business of obtaining oil and importing it into IEA countries pretty much on their own. When the crisis began, many governments discovered that they themselves were woefully ill informed about that business, had no ready sources of information about it, and were therefore not at all well equipped to deal with the crisis.

The oil companies, operating under this cloud of suspicion, found themselves under pressure to distribute oil among consuming countries, not on the basis of price and other normal market signals, but instead on the basis of political pressures.

In the wake of the crisis, there was widespread support for change. Governments sought to improve their data on international oil trade so as to be in a better position to assess oil company activities and to act more forcefully in future oil crises. Some of them expressed frustration at dealing with companies whose globe-spanning activities placed them largely outside the reach of any one government.

Companies meanwhile emphasized the need for governments to concert their responses to oil crises and to resolve international differences amongst themselves rather than forcing companies into the role of mediator.

The International Energy Agency responded to these needs. As already discussed, its oil crisis response system provided a basis for intergovernmental collaboration and dispute resolution during crises.

The fourth benefit of U.S. participation in the IEA is that it provides a mechanism for coordination with other countries across the broad range of national energy policies. As you know, Mr. Chairman, the keystones of the Reagan administration's oil crisis preparedness strategy are maintenance of large emergency oil reserves and reliance on market mechanisms for the distribution of oil.

In our view, it would be of general benefit if other courtries would place greater emphasis on these elements in their energy

policies too. We have, therefore, raised this matter in IEA bodies and sought to demonstrate to our IEA partners the advantages of this strategy.

We, therefore, view the IEA as a uniquely effective channel for communicating and debating national as well as international energy policy issues with the other industrial countries.

To summarize, disruptions in the world oil trade affect many countries, and each country's reaction to such disruptions has an international impact too. If governments are to monitor the world oil trade effectively and make effective any actions which they might take in response to oil trade disruptions, they must seek to coordinate such actions internationally. The IEA provides a means for doing so.

By way of conclusion, I would like to focus for a moment on the duration of the extension of EPCA 252. Recent extensions of EPCA 252 have been limited to 18 and even to 6 months. As you are aware, the rationale for U.S. participation in the IEA is an enduring one, springing as it does from the vulnerability of the United States and its allies to oil import disruptions.

In the mid-1970's the real price of oil gradually fell and consumers congratulated themselves that the oil scarcity threat had disappeared, only to be reawakened by the shock of losing Iranian oil exports during the 1978–79 revolution. We believe that there is no more certainty in the current comfortable situation than there was in 1977, and we will continue to be afflicted with this threat for some years to come.

Limiting the duration of the extensions of EPCA 252 presents two disadvantages. First, it inspires doubt in the minds of our IEA partners and of our own citizens about the strength of the U.S. commitment to the IEA. And second, it imposes a significant administrative burden on the legislative and executive branches in the form of time spent to argue for the successive extensions.

For these reasons, the administration supports extension of EPCA 252 for a longer period. June 30, 1985, recommends itself as a convenient date of expiration because it is the date on which expire the other IEA-related sections of the Energy Policy and Conservation Act.

This concludes my statement, Mr. Chairman. I would be pleased to respond to questions your committee may have.

[The prepared statement of Mr. Johnston follows:]

# UNITED STATES PARTICIPATION IN THE INTERNATIONAL ENERGY AGENCY

STATEMENT
OF

ERNEST B. JOHNSTON, JR.
ACTING ASSISTANT SECRETARY OF STATE
FOR ECONOMIC AND BUSINESS AFFAIRS

BEFORE THE
SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES

FEBRUARY 4, 1982

MR. CHAIRMAN,

IT IS MY WELCOME DUTY TO PRESENT THE VIEWS OF THE DEPARTMENT OF STATE ON S.1937. ROBERT HORMATS, IN WHOSE PLACE I AM ACTING TODAY, HAS ASKED ME TO CONVEY TO YOU HIS REGRET THAT A TRIP TO EUROPE PREVENTS HIS PRESENCE HERE.

S.1937 PROVIDES FOR EXTENSION OF THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT FROM APRIL 1 OF THIS YEAR TO JUNE 30, 1985. AS YOU NOTED IN INTRODUCING THIS BILL IN DECEMBER, MR. CHAIRMAN, WERE SECTION 252 TO EXPIRE, U.S. OIL COMPANIES WOULD HAVE NO CHOICE BUT TO TERMINATE THEIR PARTICIPATION IN THE INTERNATIONAL ENERGY AGENCY'S OIL SUPPLY CRISIS RESPONSE SYSTEM, A SYSTEM WHICH SERVES A VARIETY OF U.S. NATIONAL INTERESTS AND WHICH CANNOT FUNCTION WITHOUT U.S. COMPANY PARTICIPATION. THE ADMINISTRATION HAS AFFIRMED ITS SUPPORT FOR THIS SYSTEM AND FOR THE IEA AS A FORUM IN WHICH WE CAN CONSULT WITH OUR

96-065 O—82——5

ALLIES IN THE INDUSTRIALISED WORLD CONCERNING ENERGY ISSUES. WE THEREFORE STRONGLY SUPPORT ENACTMENT OF S.1937.

WE HAVE HEARD QUESTIONS AND DOUBTS ABOUT VARIOUS ASPECTS OF IEA PROGRAMS AND OF ITS CHARTER, THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM (IEP). WE HAVE REVIEWED THESE QUESTIONS AND DOUBTS CAREFULLY. OUTSIDE SCRUTINY IS USUALLY HELPFUL IN SUPPLEMENTING AN INSTITUTION'S INTERNAL EFFORTS TO IMPROVE ITS OPERATIONS. THIS IS CERTAINLY TRUE OF THE IEA. INTERNATIONAL ENERGY ISSUES ARE EXTREMELY COMPLICATED. WE THEREFORE WELCOME SUGGESTIONS FROM THE CONGRESS AND FROM OTHER OBSERVERS AS TO AREAS FOR IMPROVEMENT IN THE IEA. WHENEVER SOMEONE IDENTIFIES A PROBLEM, WE ENGAGE OUR IEA PARTNERS IN AN EFFORT TO RESOLVE IT. THOUGH WE WOULD CERTAINLY NOT MAINTAIN THAT THE SYSTEM HAS BEEN PERFECTED, WE FEEL THAT WE HAVE MADE STEADY PROGRESS IN SUCH EFFORTS.

IN OUR VIEW, NONE OF THE QUESTIONS WHICH WE HAVE HEARD RAISED ABOUT IEA ACTIVITIES CASTS INTO ANY DOUBT THE FUNDAMENTAL BENEFITS OF U.S. PARTICIPATION IN THAT BODY. IT MIGHT BE USEFUL TO REVIEW WHAT THOSE BENEFITS ARE. I WOULD EMPHASIZE FOUR.

FIRST, THE IEA EMERGENCY SYSTEM PROVIDES AN INSURANCE POLICY FOR THE AMERICAN PEOPLE AGAINST ECONOMIC HARM FROM AN INTERRUPTION OF OIL IMPORTS. OF COURSE, AS WITH MOST INSURANCE POLICIES, WE PAY A RISK PREMIUM AND THE PROTECTION WE

RECEIVE IS ONLY PARTIAL. NO CONSUMER COOPERATION PROGRAM CAN CREATE OIL SUPPLIES OUT OF THIN AIR (ALTHOUGH THE IEA IS ENGAGED IN ENCOURAGING DEVELOPMENT AND USE OF ALTERNATIVE FUELS TO DISPLACE OIL IMPORTS). HOWEVER, THE IEA EMERGENCY SYSTEM PROVIDES AN ASSURANCE THAT OIL SUPPLIES REMAINING AVAILABLE IN A CRISIS WILL BE SHARED FAIRLY ACCORDING TO AN AGREED FORMULA AMONGST MEMBER COUNTRIES, AND THUS REDUCES THE RISK OF A MUTUALLY DESTRUCTIVE COMPETITIVE SCRAMBLE FOR THOSE SUPPLIES.

UNDER THE TERMS OF THE IEA'S EMERGENCY OIL ALLOCATION SYSTEM, WE HAVE THE GUARANTEE OF OUR IEA PARTNERS THAT, IN A MAJOR OIL CRISIS, THEY WILL ASSURE THAT THE UNITED STATES DOES NOT ABSORB A GREATER PROPORTION OF AN OIL SUPPLY SHORTFALL THAN THAT WHICH THEY THEMSELVES ARE ABSORBING. FOR THIS ASSURANCE, WE HAVE IN TURN MADE A SIMILAR PLEDGE. YOU WILL RECALL THAT THIS IEA SYSTEM WAS ESTABLISHED IN THE WAKE OF THE 1973-74 ARAB BOYCOTT OF OIL EXPORTS TO THE UNITED STATES AND THE NETHERLANDS. SOME HAVE ARGUED THAT THE PROBABILITY OF ANOTHER SUCH SELECTIVE EMBARGO IS QUITE LOW, BUT IT HAS CERTAINLY NOT DISAPPEARED ENTIRELY.

WERE WE TO SUFFER SUCH AN EMBARGO AGAIN, THE NOW MORE PERVASIVE CONTROL WHICH OIL PRODUCING COUNTRIES EXERCISE OVER THEIR EXPORTS, PARTICULARLY IN THE FORM OF DESTINATION RESTRICTIONS, WOULD MAKE IT DIFFICULT FOR US BY OURSELVES TO OBTAIN REPLACEMENT OIL. THE IEP ASSURES US THAT WE WILL NOT BE LEFT TO FEND FOR OURSELVES IN SUCH A CRISIS. OUR IEA

PARTNERS WILL STAND BY US, AND THE AMERICAN CONSUMER WILL NOT HAVE TO SUFFER GREATER DEPRIVATION THAN BRITISH, GERMAN OR JAPANESE ONES.

TO THE EXTENT THAT THE EXISTENCE OF THIS SYSTEM CONTRIBUTES TO THE MAINTENANCE OF CALM AND ORDERLY MARKETS FOR OIL IN A CRISIS, IT MAY ALSO HELP TO ALLEVIATE THE HARMFUL EFFECTS OF THAT CRISIS. TWICE IN THE PAST DECADE, EVEN RELATIVELY MILD DISRUPTIONS IN OIL SUPPLIES HAVE TRIGGERED A RAPID ESCALATION IN OIL PRICES, WHICH IN TURN HAVE LED TO HARMFUL INCREASES IN INFLATION AND REDUCTIONS IN OUTPUT. WE BELIEVE THAT MAINTENANCE OF LARGER RESERVE SUPPLIES BY INDIVIDUAL OIL IMPORTERS AND CONSUMERS WILL HELP TO REDUCE MARKET PRESSURES IN FUTURE MINOR DISRUPTIONS AS IT DID A YEAR AGO AT THE OUTBREAK OF THE IRAN-IRAQ WAR. IT IS DOUBTFUL THAT SUCH STOCKS WILL EVER BE LARGE ENOUGH TO PREVENT PRICE INCREASES IN A SEVERE DISRUPTION, ALTHOUGH THEY WILL BE OF SUBSTANTIAL BENEFIT IN MITIGATING THE ADVERSE EFFECTS OF SUCH A DISRUPTION. IN SUCH CIRCUMSTANCES, ACTIVATION OF THE IEA EMERGENCY SYSTEM WOULD BE A SUPPLEMENTAL ACTION PROVIDING REASSURANCE.

THE SECOND BENEFIT OF U.S. PARTICIPATION IN THE IEA IS IN THE AREA OF OUR EXTERNAL NATIONAL SECURITY INTERESTS. IT HAS LONG BEEN AN AXIOM OF AMERICAN SECURITY DOCTRINE THAT THE SAFETY OF THE UNITED STATES IS INEXTRICABLY LINKED TO THAT OF ITS ALLIES IN WESTERN EUROPE AND IN THE FAR EAST.

OVER THE YEARS, WE HAVE MADE ENORMOUS SACRIFICES FOR AND INVESTMENTS IN THE COHESION AND SOLIDITY OF THOSE ALLIANCES. U.S. PARTICIPATION IN THE IEA AND THE U.S. COMMITMENT TO SHARING OIL WITH OUR PARTNERS IS ONE OF THE SMALLER OF THOSE INVESTMENTS.

MOST OF OUR ALLIES ARE MUCH MORE HEAVILY DEPENDENT ON IMPORTS THAN WE TO SATISFY CRITICAL ENERGY NEEDS. THE THREAT OF INTERRUPTION OF THOSE SUPPLIES IS A SERIOUS ONE TO THEM, AND ONE WHICH MIGHT BE USED TO BLACKMAIL OR HARM THEM IN WAYS DELETERIOUS TO ALLIANCE INTERESTS. THE UNITED STATES COULD NOT STAND IDLY BY WHILE A PRODUCING COUNTRY WAS USING ITS OIL EXPORTS AS A POLITICAL WEAPON AGAINST A CONSUMING COUNTRY.

THE IEA EMERGENCY OIL ALLOCATION SYSTEM IS THE EMBODIMENT OF THE RECIPROCAL COMMITMENT MADE BY THE UNITED STATES AND ITS ALLIES TO ACT IN CONCERT IN THE FACE OF AN EXTERNAL THREAT TO OUR COLLECTIVE OIL IMPORTS. FULFILLMENT OF THIS COMMITMENT WILL NORMALLY REQUIRE ONLY REDIRECTION OF OIL BEING IMPORTED INTO THE UNITED STATES, NOT EXPORT OF OIL PRODUCED OR ALREADY LANDED HERE. WE HAVE MADE THIS COMMITMENT OUT OF CONCERN FOR THE SECURITY OF OUR ALLIES AND ON THE BASIS OF RECIPROCAL COMMITMENTS FROM THEM. IN SUM, WE BELIEVE THAT IT SERVES THE GLOBAL SECURITY INTERESTS OF THE UNITED STATES.

THE THIRD MAJOR BENEFIT OF PARTICIPATION IN THE IEA IS THE OPPORTUNITY WHICH IT PROVIDES FOR CONSULTATION AND COOPERATION BETWEEN GOVERNMENTS AND OIL COMPANIES. PRIOR TO THE 1973-74 OIL CRISIS, INTERNATIONAL OIL COMPANIES WENT ABOUT THE BUSINESS OF OBTAINING OIL AND IMPORTING IT INTO IEA COUNTRIES PRETTY MUCH ON THEIR OWN. WHEN THE CRISIS BEGAN, MANY GOVERNMENTS DISCOVERED THAT THEY THEMSELVES WERE WOEFULLY ILL INFORMED ABOUT THAT BUSINESS, HAD NO READY SOURCES OF INFORMATION ABOUT IT, AND WERE THEREFORE NOT AT ALL WELL EQUIPPED TO DEAL WITH THE CRISIS. SOME MANIFESTED DISTRUST OF THE INTERNATIONAL COMPANIES, FEARING THAT THEY WERE DISCRIMINATING AMONG COUNTRIES IN ALLOCATING OIL AMONG THEIR AFFILIATES, OR THAT THEY WERE CONSPIRING TO HOLD OIL OFF THE MARKET IN ORDER TO FORCE UP PRICES. THE OIL COMPANIES, OPERATING UNDER THIS CLOUD OF SUSPICION, FOUND THEMSELVES UNDER PRESSURE TO DISTRIBUTE OIL AMONG CONSUMING COUNTRIES, NOT ON THE BASIS OF PRICE AND OTHER NORMAL MARKET SIGNALS, BUT INSTEAD ON THE BASIS OF POLITICAL PRESSURES.

IN THE WAKE OF THE CRISIS, THERE WAS WIDESPREAD SUPPORT FOR CHANGE. GOVERNMENTS SOUGHT TO IMPROVE THEIR DATA ON INTERNATIONAL OIL TRADE SO AS TO BE IN A BETTER POSITION TO ASSESS OIL COMPANY ACTIVITIES AND TO ACT MORE FORCEFULLY IN FUTURE OIL CRISES. SOME OF THEM EXPRESSED FRUSTRATION AT DEALING WITH COMPANIES WHOSE GLOBE-SPANNING ACTIVITIES PLACED THEM LARGELY OUTSIDE THE REACH OF ANY ONE GOVERNMENT.

COMPANIES MEANWHILE EMPHASIZED THE NEED FOR GOVERNMENTS TO CONCERT THEIR RESPONSES TO OIL CRISES AND TO RESOLVE INTERNATIONAL DIFFERENCES AMONGST THEMSELVES RATHER THAN FORCING COMPANIES INTO THE ROLE OF MEDIATOR.

THE INTERNATIONAL ENERGY AGENCY RESPONDED TO THESE NEEDS. AS ALREADY DISCUSSED, ITS OIL CRISIS RESPONSE SYSTEM PROVIDED A BASIS FOR INTER-GOVERNMENTAL COLLABORATION AND DISPUTE RESOLUTION DURING CRISES. IT ALSO CREATED A VEHICLE FOR GOVERNMENT-COMPANY COOPERATION BROADER THAN ANY ONE GOVERNMENT COULD ACHIEVE ACTING ALONE. FINALLY, IT PROVIDED GOVERNMENTS A SOURCE OF INFORMATION ABOUT OIL COMPANY ACTIVITIES IN THE INTERNATIONAL OIL TRADE DURING OIL MARKET CRISES.

THE FOURTH BENEFIT OF U.S. PARTICIPATION IN THE IEA IS THAT IT PROVIDES A MECHANISM FOR COORDINATION WITH OTHER COUNTRIES ACROSS THE BROAD RANGE OF NATIONAL ENERGY POLICIES. AS YOU KNOW, MR. CHAIRMAN, THE KEYSTONES OF THE REAGAN ADMINISTRATION'S OIL CRISIS PREPAREDNESS STRATEGY ARE MAINTENANCE OF LARGE EMERGENCY OIL RESERVES AND RELIANCE ON MARKET MECHANISMS FOR THE DISTRIBUTION OF OIL. IN OUR VIEW, IT WOULD BE OF GENERAL BENEFIT IF OTHER COUNTRIES WOULD PLACE GREATER EMPHASIS ON THESE ELEMENTS IN THEIR ENERGY POLICIES TOO. WE HAVE THEREFORE RAISED THIS MATTER IN IEA BODIES AND SOUGHT TO DEMONSTRATE TO OUR IEA PARTNERS THE ADVANTAGES OF THIS STRATEGY. WE ARE ALSO USING THE IEA TO ENGAGE OUR ALLIES IN DISCUSSIONS OF SUCH ISSUES AS THE DANGERS OF EXCESSIVE RELIANCE ON QUESTIONABLE SOURCES FOR

IMPORTS OF NATURAL GAS AND THE BENEFITS OF INCREASED USE OF COAL, INCLUDING IMPORTS FROM RELIABLE SUPPLIERS SUCH AS THE UNITED STATES.

WHILE THE REACTIONS OF OUR IEA PARTNERS TO SUCH POLICY INITIATIVES ARE NOT ALWAYS IMMEDIATELY ENTHUSIASTIC, WE HAVE OVER THE YEARS FOUND THAT COUNTRIES DO DRAW SUBSTANTIALLY ON IEA DISCUSSIONS AND ANALYSES IN SHAPING THEIR DOMESTIC ENERGY POLICIES. WE THEREFORE VIEW THE IEA AS A UNIQUELY EFFECTIVE CHANNEL FOR COMMUNICATING AND DEBATING NATIONAL AS WELL AS INTERNATIONAL ENERGY POLICY ISSUES WITH THE OTHER INDUSTRIAL COUNTRIES.

TO SUMMARIZE, DISRUPTIONS IN THE WORLD OIL TRADE AFFECT MANY COUNTRIES, AND EACH COUNTRY'S REACTION TO SUCH DISRUPTIONS HAS AN INTERNATIONAL IMPACT TOO. IF GOVERNMENTS ARE TO MONITOR THE WORLD OIL TRADE EFFECTIVELY AND MAKE EFFECTIVE ANY ACTIONS WHICH THEY MIGHT TAKE IN RESPONSE TO OIL TRADE DISRUPTIONS, THEY MUST SEEK TO COORDINATE SUCH ACTIONS INTERNATIONALLY. THE IEA PROVIDES A MEANS FOR DOING SO.

I WOULD ALSO LIKE TO SAY A WORD ABOUT THE ANTITRUST IMPLICATIONS OF OIL COMPANY PARTICIPATION IN IEA ACTIVITIES. SOME, PARTICULARLY IN THE UNITED STATES, HAVE EXPRESSED CONCERN THAT OIL COMPANIES MIGHT TAKE ADVANTAGE OF THEIR ASSOCIATION WITH OTHER COMPANIES IN THE ADMINISTRATION OF THE IEA EMERGENCY OIL ALLOCATION SYSTEM TO CONSPIRE IN RESTRAINT OF COMPETITION. THERE IS SOME IRONY IN THIS SINCE

A NUMBER OF OTHER COUNTRIES JOINED THE IEA PRECISELY BECAUSE THEY FELT POWERLESS ALONE TO PREVENT ANTICOMPETITIVE PRACTICES BY MULTINATIONAL OIL COMPANIES AND VIEWED THE IEA AS A MEANS FOR IMPROVING THEIR ABILITY TO MONITOR THESE COMPANIES' ACTIVITIES.

AS YOU KNOW, MR. CHAIRMAN, WE AND OUR IEA PARTNERS HAVE ALWAYS BEEN EXTREMELY SENSITIVE TO THE NEED FOR CAUTION IN ALLOWING OIL COMPANIES TO PARTICIPATE IN THE IEA. THE U.S. GOVERNMENT HAS FROM THE BEGINNING BEEN RIGOROUS BOTH IN LIMITING THE ANTITRUST DEFENSE FOR THAT PARTICIPATION TO ACTIVITIES ESSENTIAL TO CARRYING OUT THE OIL ALLOCATION AND INFORMATION-GATHERING ELEMENTS OF THE IEA EMERGENCY SYSTEM AND IN MONITORING THE PERMITTED ACTIVITIES AS REQUIRED BY STATUTE. IN FACT, OUR PARTNER GOVERNMENTS HAVE EXPRESSED CONCERN THAT THE STRINGENT REQUIREMENTS OF EPCA 252 OBSTRUCT THE OPERATION OF THE IEA SYSTEM. THE COMMISSION OF THE EUROPEAN COMMUNITIES ALSO MONITORS OIL COMPANY PARTICIPATION IN THE IEA, BUT IN A SOMEWHAT MORE LIGHT-HANDED WAY.

AS OUR COLLEAGUES FROM THE JUSTICE DEPARTMENT AND THE FEDERAL TRADE COMMISSION HAVE STATED REPEATEDLY, THERE IS NO EVIDENCE THAT OIL COMPANIES HAVE AT ANY TIME EXPLOITED THEIR PARTICIPATION IN THE IEA FOR ANTI-COMPETITIVE PURPOSES. OFFICIALS OF THE JUSTICE DEPARTMENT AND/OR THE FEDERAL TRADE COMMISSION ARE PRESENT AT ALL MEETINGS OIL COMPANY REPRESENTATIVES ATTEND, AND MEMBERS OF YOUR COMMITTEE AND YOUR

STAFF, IN REASONABLE NUMBERS, ARE ALSO WELCOME. THIS CERTAINLY DOES NOT GUARANTEE THAT OIL COMPANIES WILL NOT ENGAGE IN ANTI-COMPETITIVE PRACTICES OUTSIDE THE IEA. HOWEVER, ALLEGATIONS OF SUCH PRACTICES SHOULD NOT BE USED AS AN EXCUSE FOR WITHHOLDING THE ANTITRUST DEFENSE FOR IEA-RELATED ACTIVITIES. WE MUST NOT LOSE SIGHT OF THE FACT THAT PARTICIPATION IN THE IEA BY U.S. OIL COMPANIES WITHIN THE LIMITS OF A CAREFULLY DEFINED ANTITRUST DEFENSE SERVES THE BROAD U.S. NATIONAL INTERESTS WHICH WE HAVE REVIEWED FOR YOU TODAY. AGAIN, WE URGE YOU TO ACT FAVORABLY ON S.1937.

BY WAY OF CONCLUSION, I WOULD LIKE TO FOCUS FOR A MOMENT ON THE DURATION OF THE EXTENSION OF EPCA 252. RECENT EXTENSIONS OF EPCA 252 HAVE BEEN LIMITED TO EIGHTEEN AND EVEN TO SIX MONTHS. AS YOU ARE AWARE, THE RATIONALE FOR U.S. PARTICIPATION IN THE IEA IS AN ENDURING ONE, SPRINGING AS IT DOES FROM THE VULNERABILITY OF THE UNITED STATES AND ITS ALLIES TO OIL IMPORT DISRUPTIONS. IN THE MID-1970S THE REAL PRICE OF OIL GRADUALLY FELL AND CONSUMERS CONGRATULATED THEMSELVES THAT THE OIL SCARCITY THREAT HAD DISAPPEARED, ONLY TO BE REAWAKENED BY THE SHOCK OF LOSING IRANIAN OIL EXPORTS DURING THE 1978-79 REVOLUTION. WE BELIEVE THAT THERE IS NOT MORE CERTAINTY IN THE CURRENT COMFORTABLE SITUATION THAN THERE WAS IN 1977, AND WE WILL CONTINUE TO BE AFFLICTED WITH THIS THREAT FOR SOME YEARS TO COME.

LIMITING THE DURATION OF THE EXTENSIONS OF EPCA 252 PRESENTS TWO DISADVANTAGES. FIRST, IT INSPIRES DOUBT IN THE MINDS OF OUR IEA PARTNERS AND OF OUR OWN CITIZENS ABOUT THE STRENGTH OF THE U.S. COMMITMENT TO THE IEA. AND SECOND, IT IMPOSES A SIGNIFICANT ADMINISTRATIVE BURDEN ON THE LEGISLATIVE AND EXECUTIVE BRANCHES IN THE FORM OF TIME SPENT TO ARGUE FOR THE SUCCESSIVE EXTENSIONS.

FOR THESE REASONS, THE ADMINISTRATION SUPPORTS EXTENSION OF EPCA 252 FOR A LONGER PERIOD. JUNE 30, 1985 RECOMMENDS ITSELF AS A CONVENIENT DATE OF EXPIRATION BECAUSE IT IS THE DATE ON WHICH EXPIRE THE OTHER IEA-RELATED SECTIONS OF THE ENERGY POLICY AND CONSERVATION ACT.

THIS CONCLUDES MY STATEMENT, MR. CHAIRMAN. I WOULD BE PLEASED TO RESPOND TO QUESTIONS YOUR COMMITTEE MAY HAVE.

The CHAIRMAN. Thank you. We'll next hear from Mr. Ronald G. Carr, Deputy Assistant Attorney General of the Antitrust Division, Department of Justice.

## STATEMENT OF HON. RONALD G. CARR, DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. CARR. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, it is an honor to appear before this committee to testify on behalf of the Department of Justice in support of S. 1937. I have submitted a prepared statement to the committee outlining the reasons for the Department's support of the bill, which would extend the antitrust defense of section 252 from April 1, 1982, through June 30, 1985.

With the chairman's permission, I will summarize that statement and submit it for the record.

The CHAIRMAN. The entire statement will be placed in the record.

Mr. CARR. In 1975 Congress provided a limited antitrust defense to U.S. oil companies participating in voluntary agreements to assist the IEA. At that time, Congress also directed the Attorney General and the Federal Trade Commission to monitor activities under defense that in order to promote competition and to prevent anticompetitive practices.

The Department of Justice has done that, and I am here to reiterate what we have stated in the past on numerous occasions, namely, that we have found no adverse impact on competition from the conduct of the meetings, the subjects discussed, or any other oil company activities authorized under section 252 of the Energy Policy and Conservation Act.

The Department of Justice believes that U.S. oil companies need the limited antitrust defense in order to carry out the programs governments want them to perform in relation to allocation and information provisions of the IEP.

I would defer to my colleagues from the Departments of State and Energy to explain further the need for these programs.

In sum, the Department of Justice supports enactment of S. 1937 and the extension of the antitrust defense to June 30, 1985.

Mr. Chairman, I would be happy to answer any questions you or other members may have.

[The prepared statement of Mr. Carr follows.]

STATEMENT OF HON. RONALD G. CARR, DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Committee,

I appreciate the opportunity to appear before you today to express the support of the Department of Justice for S. 1937.

The sole provision in S. 1937 would amend Section 252(j) of the Energy Policy and Conservation Act (EPCA), 41 U.S.C. § 6272(j). to extend the effective expiration date of Section 252 from April 1, 1982, to June 30, 1985. That section affords a limited antitrust defense to United States oil companies participating in voluntary agreements to assist in carrying out the allocation and information provisions of the International Energy Program (IEP). Those provisions of the IEP provide, inter alia, for oil companies to assist IEA member governments in learning more about developments in the international oil market. They also provide for U.S. oil companies to cooperate with the oil companies of other industrialized nations in developing, and in the event of an oil supply disruption in implementing, the emergency oil sharing system of the International Energy Agency (IEA).

You have specifically requested testimony on the importance of extending the antitrust defense and whether the proposed expiration date of June 1985 is appropriate.

With regard to the first issue of interest to the Committee, perhaps some background information may help describe the need for this statute and the importance of extending the existing antitrust defense for participating

companies. The rationale for Section 252 and, indeed, EPCA itself, can be traced directly to the 1973 oil embargo and the consequent sharp increase in world oil prices, which severely disrupted the economies of the oil-importing nations. The United States and other industrialized countries decided that coordinated action to meet future shortfalls and steps to lessen dependence on imported oil would reduce their strategic and economic vulnerability. Accordingly, these countries agreed at the Washington Energy Conference in February 1974 to create a framework for close cooperation in international energy matters. Following eight months of negotiations, on November 18, 1974, the United States and 15 other nations concluded the Agreement on an International Energy Program. The IEA, which was created by the IEP, now consists of 21 of the 24 OECD countries, and is the principal multilateral body through which the United States pursues its international energy objectives.

The keystone of the IEP Agreement is a cooperative system to handle oil supply disruptions. Use of the system can be triggered when either an individual nation or the IEP signatories collectively experience a shortfall in oil supplies that is equivalent to 7 percent or more of base-period consumption. When put into action, the system involves the equitable sharing of oil according to a carefully constructed formula. During supply uncertainties governments and companies submit information to the IEA on oil production,

consumption, imports and exports so that determinations can be made whether to trigger the sharing system and, if triggered, how to allocate available oil.

It is important to stress that the IEP envisaged the use of international oil industry advice and assistance in implementing its emergency allocation and information gathering provisions. Oil companies, with their sophisticated transportation and distribution networks, were to play a key role in allocating supplies during an emergency. The IEP explicitly provides for the formation of an international advisory board from the oil industry to assist the IEA in ensuring the effective operation of emergency allocation measures. Industry expertise was also needed to develop information systems about oil markets.

As you know, such extensive industry involvement in the IEP raised possible antitrust implications for U.S. oil companies that might be called upon to assist the IEA in carrying out the functions given to it by the IEP. Thus, to foster oil company participation in the IEA, Congress in 1975 provided in Section 252 of EPCA an antitrust defense to U.S. oil companies participating in voluntary agreements to assist the IEA. This defense has, however, several important limitations. The Attorney General (along with the Federal Trade Commission) is directed to "monitor the development and carrying out of voluntary agreements and plans of action authorized under this Section in order to promote competition

and to prevent anticompetitive practices and effects, while achieving substantially the purpose [of the allocation and information provisions of the IEP]." 1/

Moreover, the defense extends only to actions taken in accordance with a voluntary agreement or plan of action approved by the Attorney General, after consultation with the Federal Trade Commission, and is specifically inapplicable to any actions taken by participating oil companies for the purpose of injuring competition. 2/

Congress also set forth in Section 252 of EPCA certain procedures to be followed in developing and carrying out voluntary agreements and plans of action. These procedures include prior notification of industry meetings convened to advise the IEA, publication of meeting notices in the Federal Register, monitoring of industry meetings by U.S. Government representatives, and the compilation of full and complete records of such meetings, including verbatim transcripts where practicable. 3/

I would like briefly to discuss our experience and activities under the IEP. The Department of Justice has given a high priority to the responsibilities given us by

---

1/ Section 252(e)(1), EPCA, 42 U.S.C. § 6272(e)(1).

2/ Section 252(f)(1), EPCA, 42 U.S.C. § 6272(f)(1).

3/ Section 252(c), EPCA, 42 U.S.C. § 6272(c).

Congress concerning oil company participation in the IEA, and we have devoted substantial resources to carrying them out in an effective fashion. We have consistently stated that no adverse impact on competition or small business has been discerned as a result of the activities of U.S. oil companies under the IEP. This conclusion is based upon our direct surveillance of most, and review of all, industry activities undertaken in connection with the Voluntary Agreement and Plan of Action to Implement the IEP.

Our experience in monitoring industry activities under Section 252 strongly suggests that if the antitrust defense provided by Section 252 were not available, participating U.S. oil companies might very well reduce, or even discontinue, their assistance to the IEA. Without U.S. company participation, the emergency oil sharing system of the IEA could not function. Thus, so long as there remains a need for intergovernmental cooperation on international energy matters, as set forth in the IEP, it is important that the statutory antitrust defense for U.S. oil companies participating in such IEA programs be continued. Such a defense should, of course, continue to be structured as provided in Section 252.

With regard to the second issue of interest to the Committee, namely, whether the proposed expiration date of June 30, 1985, is appropriate, the Department of Justice defers to the Departments of State and Energy. Those



95-065 O—82——6

Departments are in a better position to address how the length of the extension best serves our nation's foreign policy and energy interests. From our perspective, we see no competitive problems in granting an extension through June 30, 1985.

Accordingly, the Department of Justice supports enactment of S. 1937.

Mr. Chairman, that concludes my prepared remarks. I would be happy to respond to any questions you or any members of the Committee may have.

The Chairman. Thank you very much. I appreciate the appearances this morning and the testimony that has been given.

I have just a few questions. I'm sure the Senator from Ohio will have more. Try to give as much time as you can to respond to those issues in which he is interested and which he has raised.

There are many of us who have asked similar questions in one way or another over a period of time. What it is we do get out of it, what value it has, how well it is working, what the dangers and pitfalls are. Most of the focus has been on the issue of the antitrust exemption.

Perhaps we're making progress as that at least fades more into the background. Maybe it isn't progress.

On page 3 of your statement, Mr. Johnston, at the top of the page it says, "Although the IEA is engaged in encouraging development and use of alternative fuels to displace oil imports." That's a parenthetical statement, and perhaps it's not fair to pick out a parenthetical statement and focus on it, but what is IEA doing to encourage member nations to develop and use alternative fuels?

Mr. JOHNSTON. Mr. Chairman, I think the principal activity that the agency is engaged in is exchanging information on what energy policies are and reinforcing national efforts to reduce dependence on oil. We have had an opportunity to comment on other nations' programs. We have exchanged information on types of activities which would allow countries to rely on other than imported petroleum, and we think that in this information exchange we learn what other countries are doing and find out what some of the possibilities are. I think it's essentially an exchange of information system.

The CHAIRMAN. Out of that exchange of information do you see any heightened activity on the part of the member governments, or is it just an exchange of information?

Mr. JOHNSTON. How much these projects depend on the conversations that went on in the IEA and how much they were decided by the governments, I couldn't judge. But it seems to me there have been some projects which have gone on in this country as well as in other countries in geothermal activities, in the efforts to try to harness more of the solar sources of energy, in the efforts to try and see if we can do anything that is practical in biomass.

There are activities of these types going on in several countries. We'd be perfectly delighted to give you a list of the ones that we know of.

The CHAIRMAN. I'm interested in another aspect of that as well. I'm quite aware that a number of foreign governments have been critical of the United States over the years since the 1973–74 embargo because per capita energy consumption in the United States was higher than in their countries. They've been very vociferous about that at times, asking us not just to shift but to reduce, and I was wondering if the pressure or the encouragement that IEA gave for shifting alternative fuels, was one in which we participated, or whether we were the recipients of that urging.

Mr. JOHNSTON. Well there's no question we were the recipients of more urging than we gave, but I also think the pressure that we have felt on that has diminished a good bit. If you look at the consumption of oil amongst the IEA participants, you see that the

United States itself consumes almost half of the total amount of oil that is consumed by the IEA.

However, what happened in the United States in 1980–81, in regard to a reduction was more impressive than what took place in other countries. So although the United States is still the largest consumer of oil, the United States has made greater progress than some other countries in reducing consumption. This has relieved the pressure to some extent.

The CHAIRMAN. I'm sure it has, although some of us are wondering whether that is a result of real conservation or a result of a recession.

Mr. JOHNSTON. When the President took off price controls, that had been promised. It was advanced somewhat, and I think that capitalists take that kind of thing into account when they make their investment decisions. And some of the biggest savings we've seen have really been in the industrial area because people have made plans for capital expenses. Once you get the capital equipment in place, you're using that form of energy for a long time.

The CHAIRMAN. Were IEA members urging us to do away with price controls on petroleum?

Mr. JOHNSTON. Our IEA partners have been stressing that for quite a long time. They felt that was one of the biggest weaknesses in the program that the United States had 2 or 3 years ago.

The CHAIRMAN. They don't ignore natural gas?

Mr. JOHNSTON. Yes, sir. The administration has yet to make its decision on that.

The CHAIRMAN. But we're hearing from IEA members, is that correct?

Mr. JOHNSTON. I think that's the general proposition in the IEA, most of the IEA. I do have to recognize that there are some others that have what we might call pricing problems, but I think there is a great deal of emphasis, particularly in members such as the Federal Republic of Germany, that you will not conserve unless your sources of energy are priced at market and uncontrolled prices.

The CHAIRMAN. Well it may have gone beyond that. Some have penalty rates for consumption on much of their energy, have they not?

Mr. JOHNSTON. I really don't know the answer for that so far as industrial consumption is concerned. But if you travel around Europe or Japan and look at the price per gallon of gasoline, you realize it's close to twice, 2½ times, what it is in the United States. That difference is a question of taxes.

The CHAIRMAN. I'm also intrigued by a partial omission in your answer. Not conscious, perhaps. One of the major thrusts in Japan and certainly the major thr[illegible] within France, an additional thrust in Great Britain, and a continuing policy in the Federal Republic of Germany, is great reliance upon nuclear power. You didn't mention that.

Mr. JOHNSTON. It was an inadvertent omission. As you know the administration has issued a statement on nuclear power and the administration feels very strongly that this is one of the principal sources that we're going to have to resort to. Now we've got a lot of regulation problems.

The CHAIRMAN. Do we hear from our IEA partners on that issue?

Mr. THOMAS. Perhaps I can respond to a couple of those. Indeed we do hear very strongly from our IEA partners. They have recently completed one of the exercises that the IEA goes through, which is a country energy assessment program, to in fact determine what is happening to the energy environment in the member countries. We have had that a couple of times in this country, and in fact they have just recently, within the last week, completed a further assessment here. One of the exercises that they went through was to look at the state and health of our electricity generating capacity in the United States and the energy that it grabs from.

The nuclear programs were looked at most critically. Meetings were held with our electric generating companies and some of the regulatory organizations affecting them. And I think we will see some rather sharp comments rather shortly in that area.

But in addition to that, Mr. Chairman, I might indicate that a recent initiative within the IEA itself has brought together the Nuclear Energy Agency—also a component of the OECD—and the IEA itself, to do a joint assessment of demand and supply for the member countries in the nuclear generating area. Clearly we look at nuclear power as a major source of energy for many of the member countries.

The CHAIRMAN. I appreciate the response. I keep trying to remind people in the United States that we alone among all the industrialized nations, having had a near total monopoly in the field, seem bent upon national policies to destroy or diminish it. Of course I recognize the statement made by President Reagan and this administration, and the emphasis upon an affirmative nuclear policy. I keep wondering just how fully fledged that will be in the light of public opinion and public pressures, which this Congress will still have to address.

Again on the same page of your testimony, you say.

> Under the terms of the IEA's Emergency Oil Allocation System, we have the guarantee of our IEA partners that, in a major oil crisis, they will assure that the United States does not absorb a greater proportion of an oil supply shortfall than that which they themselves are absorbing.

Has that been fleshed out in any detail, how the proportions are arrived at, and if so, based upon what statistics of consumption or production or need?

Mr. JOHNSTON. As I understand, you're talking about the system that would be utilized in the case of a trigger. At the time the system was set up there were two conflicting forces at work amongst the countries. Those countries which were producers of oil wanted to have a system which was based on imports. Those countries who were totally importers of oil wanted to have a system which was based on consumption. And what was set up was essentially a compromise between the two.

The system as I understand it, and it's very complicated, requires that, if the IEA decides that the trigger mark has been met and that 7 percent of the oil which would ordinarily have gone to the members is not there any longer, the members reduce their consumption by 7 percent. They then have an obligation to draw on their reserves.

A calculation is then made on where the oil is, or where is the oil coming from and this oil is then allotted to those countries which are in a deficit situation.

Now if the situation gets even worse and you get above, I think, a 12-percent shortfall in oil, the countries are obligated to reduce their consumption by 10 percent. Now once you get into that kind of situation, if for example, you get a situation where the shortfall is up to 16 percent, the obligation then falls more on the importing countries, that is to say the nonproducing countries than it does on the producing country.

In that case, for example, the United States would suffer a shortfall in its supplies of something like 12 percent, and the Japanese would suffer a shortfall of something like 16 percent.

The CHAIRMAN. But that's based upon past consumption figures?

Mr. JOHNSTON. It's based on a series of figures covering the immediately preceding four quarters, taking into account that you don't have the figures for the last quarter.

The CHAIRMAN. But it's based on actual consumption and not upon some collective notion of what consumption ought to have been.

Mr. JOHNSTON. Oh no, it certainly is based on consumption.

The CHAIRMAN. Is there any bias in that system based upon the criticism that we've had that we consume too much?

Mr. JOHNSTON. I don't think so.

The CHAIRMAN. The agreement, or the meeting in December that produced a number of agreements, included an increased information system, and it provided that the IEA countries would provide to the Secretariat monthly country data on indigenous production, imports by origin, exports, stock levels and changes, apparent consumption, worldwide stocks at sea, and there are some additional qualifying language along with that listing.

It has not been long since that was agreed to. Have we any experience under that that indicates whether the information is coming to the Secretary on the basis of that standard?

Mr. JOHNSTON. The system goes into effect in February, Mr. Chairman.

The CHAIRMAN. We have no experience under that yet?

Mr. JOHNSTON. Of the quality of information, no.

The CHAIRMAN. That has been a problem, has it not?

Mr. JOHNSTON. Yes it's certainly been a question of quality of data. In fact that was one of the problems that Senator Metzenbaum alluded to when he talked about the report which had been made by the General Accounting Office. We have recognized that there have been data problems, but we also think that we have made some progress as people have pointed out where we have data problems.

The CHAIRMAN. I hope we find our allies more helpful and accurate in their reporting than is the case under some other international agreements. I remember one that we have with the Soviet Union, for instance, that requires them to write data on agricultural production. And while that agreement has been in effect for many years, it still isn't being complied with. We hear all the time

statements made, oh, the Soviet Union complies with every agreement they've ever signed. That's pure baloney with a capital "S".

Mr. JOHNSTON. I don't think that's a good parallel.

The CHAIRMAN. I hope our friends in Europe are more friendly than our friends in the Soviet Union.

Mr. JOHNSTON. We're looking for that.

The CHAIRMAN. There are some people who are sometimes skeptical of that. I think we heard a little skepticism from the Senator from Ohio this morning that maybe they look after their own interests before they look after their international obligations, even when we are involved. And frankly, I want to see that this information is good.

We don't have good information within our own country on some of these matters. That's one of the reasons we have an antitrust exemption, to be able perhaps to improve that data flow system in the IEA. We haven't gotten sophisticated enough to admit that we need the same kind of sharing of information in this country based upon the same kind of assurances of security for the proprietary information.

We've also heard the criticism that was levied about the classification of the minutes, depriving people of the opportunity to see what was decided. Certainly, there are proprietary information matters that must be deleted from the public record. There are also matters of sensitive diplomatic relationships in the world that must be shielded from too candid review of the contents of those discussions. Classification is always troublesome, but I do believe the question is a legitimate one to ask, and we'll continue to ask it. How much is enough, how much is too much? I would appreciate your comment with respect to the criticisms that have been leveled.

Mr. JOHNSTON. That was one of the encouraging things about Senator Metzenbaum's statement about the IEA last fall. At that time, he mentioned the striped pants people in the State Department, so I was very careful about the suit I wore today.

Senator METZENBAUM. I didn't mention the striped pants this morning.

Mr. JOHNSTON. That's what I say, it was a big improvement. We have found in discussing these questions with our IEA partners that they had a very strong feeling that if we had a transcript which was to be given completely to the public that the discussions would not be very helpful. The discussions would not be as frank as they could otherwise be; that they would not result in acquisition of information which would be as helpful as it would be if these were not released to the public.

Our feeling is that we are trying to carry out the law to the extent that we can while taking into account the opinions of our allies.

As you know, we are very careful to include all of the comments by the American oil companies in these transcripts that are maintained in the Energy Department reading room, and of course any member of this committee is perfectly at liberty to come to us and we'll let you see the whole thing.

The CHAIRMAN. I suspect that part of the problem lies in the fact that there are organizations that are not Members of Congress

that have the wish to continuously monitor that discussion as well. They can't always come to us to get the information, nor can we always be the conduit by which we make decisions, or should we make decisions that are separate from those that are made by our Government with respect to what is classified and what is not?

We have the strictures of law that apply to us as well, so we might be able to get the information and not be able to transmit it because of the classification attached to the document.

Mr. JOHNSTON. I just referred to the fact that these documents are open to Congress, just to emphasize that there is no hanky-panky being hidden in the fact that these are not released to the public. This is at the request of the other members of the IEA.

The CHAIRMAN. That's a difficult one, I recognize. There is truth and validity to the fact that candid discussions sometimes are inhibited by the sure knowledge that they will appear in the headlines the next day. That's something we live with in the business in which I am engaged every day. I think we sometimes are far too openmouthed in our publication of the conversations that do take place.

But there is a problem here. EPCA did say these transcripts would be available. That was a policy decision made by the Congress.

Mr. JOHNSTON. I'm not sure; I think there were certain references to exceptions made in that aspect of the law.

The CHAIRMAN. There are indeed. The question is, Is that all that is being classified? Does it all fall within those exceptions?

Mr. JOHNSTON. When we have conversations with other governments and those governments say to us that they think the conversations ought to be private, we feel a sense of obligation.

Senator METZENBAUM. Is your obligation to other governments greater than to the laws of the United States?

Mr. JOHNSTON. Certainly not. We have to make a judgment on what is confidential. And the laws of the United States also recognize the fact that there is information which should be kept confidential. And that is not going contrary, it seems to me, to the laws of the United States.

The CHAIRMAN. I understand that difficulty. I'm trying very diligently as best I can, to try to find out whether or not we are abusing, under that concern, the provisions of the statute that allow classification or withholding the information. I don't think we'll ever have complete satisfaction on that. Every time a member of the public picks up a document and there is part of it deleted because it's classified, his worst suspicions are always raised as a result of his own imagination about what was contained in the information deleted.

Mr. JOHNSTON. I understand that. Part of the problem as you know is that the United States has gone so much further with sunshine acts than other countries. It has become a fact of our political life and everybody understands it. But there are very few parallels with other countries, and that is what leads them to the conclusion that they have in regard to those discussions.

When we raise this matter, I think the last time we raised it was about a year ago, we got the same response that we had previously gotten.

Senator METZENBAUM. Isn't it a fact that every single statement made by a foreign government at those meetings and every single statement of the Secretary, almost without exception, is deleted from the records and not available to the public?

Mr. JOHNSTON. Yes Sir.

Senator METZENBAUM. That speaks for itself.

The CHAIRMAN. Somewhere along the line they have to understand that our participation in that may well be affected by public reactions to that practice. I would hope that is impressed on them. It may be that we have to develop a different way of releasing the information. Maybe a verbatim transcript is not the right way to do it. Maybe that's impossible for us to live with. But if that is the case, rather than ignore the law, seek a change in the law.

Mr. JOHNSTON. My understanding is that some of the reports that are written by the Justice Department and the Federal Trade Commission do include summaries of what goes on in those meetings.

The CHAIRMAN. If that is to be the policy that we follow, then perhaps we ought to seek a clarification of this statute and have the policymaking branch of the Government make a determination on that. And then at least you wouldn't be up here being asked whether you are abiding by the law.

I think there is a problem in this area, and it's a delicate one. I understand that. And I'm not accusing you of wrongdoing. I'm saying that we have a problem which may be indeed imposed by the perceptions of foreign governments. And I don't blame them for being concerned about the United States. We have destroyed our international confidence in many areas by the Freedom of Information Act and some of the exccesses that have been practiced under it.

Sunshine is not always a good thing to have, although there is a period in our climate and weather in Washington that's, well, I think we ought to try to find a way in which we can consult together to modify the statute and modify and strengthen the practices being followed so that we have a common understanding as well as a common goal of what is required and what is good for us to do.

We'll debate that out in the forum. We'll come to some kind of a majority decision, and we'll all try to live with it.

One final thing, and then I'll turn to the Senator from Ohio.

The Department of Justice in the past has told us that every meeting that was held had someone from the Department of Justice's Antitrust Division in attendance and/or somebody from the FTC present to monitor those discussions. Is that not correct?

Mr. CARR. That is correct.

The CHAIRMAN. That is still the practice and is still a fact?

Mr. CARR. Yes.

The CHAIRMAN. That will continue to be the practice?

Mr. CARR. As the understanding is, that's correct.

The CHAIRMAN. Thank you very much. I want to underscore just one statement that I think needs to be underscored for this Nation again and again, and I will return to the statement you made, Mr. Johnston, on page 2 of your statement. And I'm going to read it again because I want to emphasize it.

In the mid-1970's the real price of oil gradually fell and consumers congratulated themselves that the oil scarcity threat had disappeared, only to be rudely awakened by the shock of losing Iranian oil exports during the 1978–79 revolution. We believe that there is not more certainty in the current comfortable situation than there was in 1977, and we will continue to be afflicted with this threat for some years to come.

That ought to be the bottom line of American perception, and it ought to be the bottom line of the policy thrust to meet that certainty. Remind people that as a matter of fact we had a very marginal surplus in 1977 worldwide. The loss of 5 million barrels a day put us into a shortage position, and the price of oil doubled. That was less than 10 percent of the free world's oil production, and yet it had that kind of leverage on the market.

I think we ought to remind ourselves of that more than just occasionally.

Thank you very much.

Senator METZENBAUM. I would like to remind you also to check your facts, because when the Iranian oil cutoff occurred, the oil companies told us that there was suddenly a shortage. The facts are that there was more oil available than had been available before and that was confirmed by any number of independent sources. So when you tell us that a the great shortage occurred, I have to say to you sir, that I don't think that is in conformity with the facts. The fact is we had more oil and the oil companies held back their product from the market and drove up the price.

Mr. JOHNSTON. Are you really saying when we lost Iranian oil production by 5 million barrels that we had more oil after we lost it than we had when we had it?

Senator METZENBAUM. Let me tell you about Mr. Koenig. Do you know the name of Koenig, or do I need to describe him? He is a high IEA official who said, he wrote a report and he said that in the report. That's never been released, but its findings are available. Koenig found that major oil companies exacerbated a relatively minor shortage by building up excessive stock piles of oil and gasoline during the spring and summer of 1979 instead of releasing supplies to the marketplace '

The facts are that document after document and newspaper after newspaper indicated that there certainly was no shortage that occurred the moment the Iranian oil fields were shut down, but immediately the oil companies increased their prices markedly and claimed that there was a shortage that was actually impossible to have occurred. Beyond that point, other independent sources came to the conclusion on that at that very point. There was actually a surplus of oil available and the companies just exacerbated the problem.

So let me say this is one of the main reasons. The chairman points out what the value of it is. I just want to say that is not in conformity with the facts.

The CHAIRMAN. I wasn't sure whether your statement was addressed to the witness or to me when you said check your facts, because I'm the one who raised the issue of what the facts were. I would say to my friend from Ohio, his perception of the facts is often different from my perception of the facts.

Senator METZENBAUM. If you check the facts, and I'm willing to say the facts speak for themselves rather than perceptions of facts, and I think you will find that there was not the shortage——

The CHAIRMAN. There was a shortfall of 5 million barrels a day out of the 7.6 million barrels a day that they had produced before that time.

Senator METZENBAUM. A short fall of 5 million barrels out of 7.6?

The CHAIRMAN. Check the facts. Those are the facts. And the world was producing, the free world was producing 55 million barrels a day out of which we lost 5. And those are facts. There can be suppositions as to why things happened that did happen following that fact, and yes indeed there was a lot of speculation in the market. Spot prices went up very dramatically, and there was hording that went on by a great many people in anticipation of the impact of that shortage or others that might have come along. It had a great effect upon the market. It wasn't just oil companies that did it.

Senator METZENBAUM. I'm not going to raise any questions with you because you'll use up all my time by debating me.

Let me go on.

Now you told us, Mr. Johnston, that one of the great values of the IEA is it gives us a chance to share information as to what each is doing in connection with energy problems.

Have you shared with the IEA countries the cutback in the administration with respect to support for geothermal programs?

Mr. JOHNSTON. We have certainly given information to the International Energy Agency on exactly what we are doing.

Senator METZENBAUM. Did you tell them that this administration has cut back drastically the fund for solar energy projects?

Mr. JOHNSTON. We have told them as a result of the budget tightening in this country that we have taken quite a number of actions that cut back some of the research and development that the administration has been carrying on in the energy field.

Senator METZENBAUM. Did you tell them that we cut back unbelievably in the amounts of money that had been available for coal gasification?

Mr. JOHNSTON. I don't believe we used the word "unbelievably."

Senator METZENBAUM. But you did tell them?

Mr. THOMAS. Mr. Chairman, yes, I told. I've told them in a cooperative spirit, because it's not just the United States that has serious economic problems in the world, but many of our partners of the IEA have likewise very serious economic problems.

Senator METZENBAUM. Did you tell them we cut back funding for the conservation program?

Mr. THOMAS. I would suggest, Senator Metzenbaum, in this particular case, that we have consulted, as my colleague from the Department of State says, on all of our international commitments in these areas.

Senator METZENBAUM. The answer is either yes or no.

Mr. THOMAS. Yes.

Senator METZENBAUM. Did you tell them we cut back on gasohol programs by billions of dollars and have terminated many of the programs that had been in place?

Mr. THOMAS. I think my answer to you was that we have consulted with them on all of our research and development programs where we are linked to them in these areas and I would suggest to you, sir, as well, that many of these countries are likewise reducing their activities in many of these areas for substantial budgetary reasons.

Senator METZENBAUM. Let me just ask you, Mr. Johnston, you alluded to the fact of how valuable this cooperation is in international relations and how it helps us with our allies. Is that one of the four reasons you set forth as to reasons for our being in the IEA?

Mr. JOHNSTON. I think my first point was that we guarantee that the United States will be able to avoid suffering more than anybody else. The second point is that it is also in the security interests of the United States to make sure that our allies are also supplied with energy.

Senator METZENBAUM. Didn't you also say something about the value of having cooperative arrangements with our allies and that helps us in our international relations? Isn't that the thrust of your remarks?

Mr. JOHNSTON. Yes. I think I could go along with that.

Senator METZENBAUM. Do you think it helped us any when they failed to support us in connection with the Polish sanctions?

Mr. JOHNSTON. Senator, it seems to me that if we're talking about cooperation in the IEA, the question is "Is it helpful to the United States to cooperate in the IEA?" Now we can find all sorts of occasions where we have arrangements with other countries and one or the other doesn't get along too well, but the question here it seems to me is whether we get some good out of this organization? I think the answer is yes.

Senator METZENBAUM. Tell me what benefit we get.

Mr. JOHNSTON. We have an insurance policy so far as energy coming into the United States is concerned We have also participated in an insurance policy so far as other countries are concerned. We know more about the oil market because of the IEA than we would know without it.

I think those are three reasons which are important.

Senator METZENBAUM. We produce in this country how much oil per day?

Mr. JOHNSTON. I'd say about 10 million barrels a day.

Senator METZENBAUM. You're saying that if there is a shortfall of that, under those circumstances we are going to get oil, or are we going to have to give up oil that we otherwise might be able to get?

Mr. JOHNSTON. I think it depends on what happens. If we get into a situation similar to the one that the United States experienced in 1973–74, where there was an embargo aimed at United States and Netherlands, then we will get oil. If we have a situation where the oil production goes out in this hemisphere or if it goes out in Africa, we will be net beneficiaries of oil.

In the case where there is a Middle Eastern problem and there is a heavy one, we would probably have to supply oil.

Senator METZENBAUM. In the case of what?

Mr. JOHNSTON. In the case of supplies being cut off from sources on which Japan and Europe are dependent, then in that case we would be expected to supply oil.

Senator METZENBAUM. If the Saudi Arabian oilfields were taken out of action, would we then have to be giving up oil in order to help other nations?

Mr. JOHNSTON. I can't answer that right off the bat. For the whole Persian Gulf, the Japanese are dependent for three-quarters of their supplies, the Europeans for about 66 percent of their supplies, so I think we would.

The CHAIRMAN. If it were the Saudis alone, probably not. But if it were the whole Persian Gulf, probably.

Senator METZENBAUM. If we had to give up oil, what would be the impact upon the consumers of this country?

Mr. JOHNSTON. I think the prices would rise.

Senator METZENBAUM. Drastically, wouldn't they?

Mr. JOHNSTON. It would depend on how much oil we would be short.

Senator METZENBAUM. Mr. Johnston in his prepared statement states the IEA emergency system provides an insurance policy for the American people against economic harm from interruption of oil imports.

Do you agree with that, Mr. Johnston, that the United States is insured against economic harm by participating in the IEA?

Mr. THOMAS. I think I would caveat that statement somewhat, Senator, by saying that it is an insurance policy, and like all insurance policies normally are, that it doesn't give you 100 percent return. In this case it would lessen the impacts on us as it would lessen the impacts on our trading partners, which is a key element from an economic consideration.

We are an interdependent society in this economic world, which I'm sure I don't need to bring to your attention here. And oil is a principal commodity and is important to the economic stability of our trading partners. Thus our consumers would be directly affected, quite severely affected in some cases, if some of our trading partners were most seriously and perhaps even disastrously affected by a major curtailment of oil supplies. So in this context, the sharing system is one in which we all share a part of the burden and in which none of us suffers, hopefully, the disastrous consequences of a major supply disruption.

Senator METZENBAUM. But realistically speaking, most of the nations who are parties in IEA have little or no production, unlike the United States. Therefore, would you not agree that the GAO is correct when it indicates that on almost every instance the United States would have to give up oil rather than obtain oil?

Mr. THOMAS. I haven't gone through a case by case scenario, Senator, to be able to say unequivocally that that would be so. Certainly there are a number of scenarios in which that would likely be the case, and I think one of our concerns is that we tried to design a system here within the IEA and the IEP that is sufficiently flexible to be able to respond to very severe circumstances. And if it's one of our allies that's in real trouble, I think the United States is going to be quite willing to do whatever it can to assist that ally,

while taking into account, of course, our own domestic security considerations.

Senator METZENBAUM. We don't need the IEA for that, do we?

Mr. THOMAS. It depends on how many countries are involved. If there is one country involved we might very well be able to work on a bilateral basis, but we're dealing with a number of major countries in here. And in this case we believe that all of us sharing our information together makes us stronger in the process.

Senator METZENBAUM. How do you feel about the fact that an agreement was reached at an earlier IEA meeting that all countries would cut their consumption 5 percent, and that the United States was the only country that really lived up to its commitment? Some of the other countries actually increased their consumption and flaunted the understanding that was reached at the IEA meeting? And what makes you think that tomorrow it would work better?

Mr. THOMAS. My response to that is that we only have so much suasive power over our allies in the best of circumstances; there are other present factors as the world security situation indicates. I think this is one where we are looking to the good offices of allies and colleagues working together in partnership. If somebody doesn't want to play ball with you, obviously if the ball or the bat happens to be yours you can take it and go home. In some cases we may have a lot more suasive power than they do. This is one of those instances where we certainly would try to bring whatever pressures we could to bear to assure that they lived up to their agreements.

I would suggest, as you have earlier in some of your statements, that for some countries, indeed, it's very desirable for them to belong to this sort of organization, and that they might well, under some circumstances, get quite a bit out of it. It is to their benefit to participate and to their benefit to play and play fairly.

Senator METZENBAUM. But we know in recent years almost all of our partners in IEA, at least the major ones, have openly and deliberately thumbed their noses at our country. Most recently I guess, France, which is not even a member. We know that France, which has continued to exploit their situation vis a vis the Arab nations, just as recently as a few weeks ago, agreed to sell one of our South American neighbors, Nicaragua, shoulder-fired missiles. We didn't do anything about that, so the persuasive powers are not very good.

None of the European nations have agreed or are willing to help in connection with the matter of bringing about the Camp David peace accords. France is actually paying Algeria for LNG. All of our western ally neighbors have refused to join in the Polish sanctions. Our western allies have failed to increase their defense budget, notwithstanding the fact that we importuned them to do so.

Now here is a situation that would be far more bitter, a far more bitter pill for the people of those nations to endure, and that is to cut back on their own oil, and you're saying we're going to do it on the basis of persuasion?

My point is, this whole participation is a totally one-sided deal, and again we're being taken for a ride by nations who are able to

use the IEA for their purposes. Notwithstanding the generalities that have been set forth as to the values, it seems to me that there isn't any real value to our country in our participation. The Congressional Research Service, GAO, and the Department of Energy have come to a similar conclusion at an earlier point.

How would you respond to that?

Mr. THOMAS. We have a lot of different formulas with which we try to do business with other folks. They don't always work quite as well as we'd like them to, but sometimes it's worth the effort just to keep in there trying. Sometimes you get a good lick in now and then and it finally pays off. And this is the case here. If we limit ourselves to the energy business, and particularly to the oil business, we see some pretty decent levels of cooperation. We see some cooperation in terms of research and development programs and projects which have been undertaken. We see comprehensive assessments of energy supply and demand and of the energy programs of all of the participating countries in here; this in turn has given us considerable information which we share together to determine what is the future course of energy requirements and sources of energy.

In turn this has assisted in directing further efforts in particular areas for exploration and development.

Senator METZENBAUM. Those are generalities. Let's take each of those individually.

You say we've gotten good information from them. We also have a report from the GAO that says the facts and figures are not reliable. Mr. Johnston confirms that and says there is some effort being made to improve upon that. So, therefore, the facts and information, we have facts and information; but if it isn't correct it's meaningless.

Mr. THOMAS. Let me respond to that. Indeed that information may have been partially correct at the time the GAO report was submitted, but this is a dynamic organization. It is not stagnant. We have taken the findings in the studies done before, and we've tried to put those to good use. We've put a little pressure on some of the elements of the IEA staff. In turn, we've met bilaterally with a number of the countries concerned to assure that the reporting mechanisms are improved, and our ability to handle the very large volumes of data are, in turn, enhanced.

I feel comfortable that we've come an awful long way from that report.

Senator METZENBAUM. But your own department, the Economic Regulatory Administration of the DOE, said in March 1981, that it had serious reservations about whether the system could function effectively in an emergency. The report found that the data was in shambles, that oil was quote, "lost" from the system during the implementation of allocation rights, and that a large discrepancy in historical data arose. The IEA Secretary had to resolve the problem on a totally subjective basis.

The report also pointed out that the system is completely unable to resolve the problem of price disputes during an allocation between countries.

Now, IEA has been there for a long time. The Secretary has been there for quite awhile. How much does it cost us to participate in the IEA?

Mr. JOHNSTON. We spend about $2.4 million a year.

Senator METZENBAUM. The amount of money is, not that significan't, but the point is, if you aren't getting anything out of it, you're saying we're getting data. Your own department is saying the data isn't usable, isn't credible. You say we're improving upon it. Mr. Johnston says that, though we would certainly not maintain that the system has been perfected, we feel we've made steady progress in such efforts.

Well, it's been in existence now 7 years, is that about right?

The CHAIRMAN. Six.

Mr. JOHNSTON. Just over 7.

Senator METZENBAUM. As of this moment, it hasn't been working. The 5 percent that was agreed upon didn't work. On that score, you know there's the old saying, fool me once you're a fool, fool me twice and I'm a fool. Now we were fooled once on this 5-percent cutback. We have to wait until we participate, until the American people suffer, until they pay higher prices when there is a cutback on supplies for other nations' purposes and then wind up saying, Well, I guess we're a fool a second time? Again the United States has been made a fool by its partners in the West.

I must confess to you that I have listened very intently to everything that you gentlemen have said, and all I felt that I've heard, gentlemen, is generalities. That we're getting better cooperation, we've got a sharing of information, we are trying to cooperate, we have to help our partners. We can help our allies without the IEA. Frankly, I'd like, and maybe I didn't hear it right, but somehow I'd like somebody to tell me in one sentence why we ought to be in the IEA for our Nation's interest.

Mr. JOHNSTON. You say that we can handle this kind of thing on a bilateral basis, that we watch and we see somebody's gotten into some trouble and we'll be able to handle oil. I'm not at all sure that that's true, and I think you have to take into consideration what Mr. Thomas said, that you don't know how many people would be affected in something like this.

But does that give anybody any assurance that maybe somebody is going to help them if they get into a bad situation?

What we've got here is a series of precisely defined obligations. That is what people can count on. If I have to hang around waiting for some country to say, "Well, I hope somebody takes pity on me," I don't think that would give me any assurance at all.

Senator METZENBAUM. As a matter of fact, nations of the world did do pretty well rather recently. Wasn't it the Netherlands that was cut off, or one of the Western European nations was cut off, and the other nations of the world saw to it that they received oil, as I recollect.

Mr. JOHNSTON. You're talking about the time when the United States and the Netherlands were both embargoed.

Senator METZENBAUM. No, I'm not talking about that. I'm talking about the time since then. Wasn't Sweden cut off? As a matter of fact, I'm told that Sweden had an actual shortfall of 7 percent.

The trigger could have been pulled. It wasn't pulled, and it was worked out informally.

So what I'm saying is that you can work these problems out informally with your allies and that this program, if it is actually triggered, would in almost every instance work to the disadvantage of our country and to the advantage of our allies. I think that the original concept was really not to this effect, but rather that we would be able to have some sort of a cartel of consumer nations. It hasn't worked that way and as a matter of fact, it seems to me as responsible people, when they find that a program hasn't worked, when the 5 percent didn't work out, when the information isn't working out, or when all the government agencies that have looked at the program, our Government agencies, say it is not working and probably won't work. When they're even trying to go beyond that point to put into effect some allocation system at this point, even without an emergency, and this Nation has as its policy, no domestic allocation? I just believe that it's time to reevaluate, and once in a while we ought to walk away from some of these international agencies and say, "goodbye, we love you but you're on your own. We'll try it on our basis."

But no, we're stuck with it and the American people wind up paying the price for it as we do in so many other instances.

It's not a question of oil companies getting the best of it or oil companies not getting the best of it. It's a question of, this is bad policy for our country.

Mr. THOMAS. I can respond to you at this point only to this extent: I have personally involved myself in looking at some of the problems which you have referred to here. Some of the reports to which you refer are not in fact, I think, really official reports of those bodies themselves. The Department of Energy report to which you referred was an internal ERA report. There are certain internal reports done all the time.

I have reviewed the GAO report personally very carefully. I have gone over the reporting mechanisms which we require of our companies. I have met with the members of virtually every one of our companies that participate in the Industry Advisory Board of the IEA to discuss with them, as well, the reporting. I have visited approximately a third of the member countries to review their stock levels and their internal reporting mechanisms and actually to endeavor to see whether or not they are holding the stocks to which they are committed.

In addition to that, Senator, I have spent considerable time with our intelligence community on this subject. I have looked very closely at collaborative information which we have in some cases to do some spot checks on certain information, and I'm comfortable that we've come an awful long way in our ability to in fact determine where oil is moving, how much of it is there, and what its destination is. And since most of the oil itself, in fact, is from the principal companies in the IEA, it must move by sea as opposed to land. I'm comfortable at this stage that the basic information on which we can forecast what is, in fact, happening in an oil market disruption, is improving markedly over the last several years. And I think one of the principle problems, if I understand it correctly, from the rather dramatic price increase which resulted and to

which you referred earlier, was largely a result of imperfect information in the marketplace as to what people knew was available in the way of supplies and what anticipated shortfalls would be. We suffered from that, but our European and Japanese colleagues suffered much more dramatically from that than we did.

In addition, something else has been happening in the last year that is often missed in this country. Europe and Japan have gone through another rather dramatic oil price shock this last year. That price shock has come about through the strengthening of the U.S. dollar, because oil is denominated in dollars. Therefore, while we have seen in some respects a softening in the price of oil at the pumps in this country, that has not been the case for most of the rest of the world.

So they are continually concerned, and frankly, they have some fear. They look to the United States in many respects for leadership in this area. We provide that through our participation in the IEA. We are the big boys in the game. I quite agree with you that indeed we are that. But I think that under the circumstances this is one case where you turn to your allies and you do the best you can under the circumstances to provide the best information in terms of market conditions and the best information in terms of what the effects of a shortfall would be. As a result of that, you consult closely with them when the situation gets as serious as we would suggest here that it might (as I commented in my formal statement, Saudi Arabian oil now provides 20 percent of all the oil imported into the United States and about 7 percent of our total oil consumption). Our allies would be in even more precarious circumstances than we if indeed a major shortfall were to occur.

I don't think we're prepared to let them swing out there alone under these circumstances, and the IEA it seems to me, from my review of the circumstances, is at this time the best possible mechanism we have to work together to deal with a severe oil interruption.

Senator METZENBAUM. You would portray our allies as being just a little bit holier than thou and wonderful and how they look to us for leadership. I didn't go to every IEA meeting but I want to tell you, I wasn't very proud to sit there when my own State Department didn't respond and we were lacerated by the other nations. We were just taken apart. We were irresponsible, we were consuming too much, we weren't providing the leadership, we were the bad guys. I said to myself then, what are we doing here? Why are we playing this game with these people? These people are just picking on us and we're trying to help them.

So when you tell me that they're looking to us for leadership and how great they are, all I can say to you is, I think that I have as much desire as any Member of this Senate to have a good working international relationship. But that is the same kind of relationship I want with my brothers across the aisle, and that is a good working relationship and not that it's all one-sided. So when you tell me how great they are, how marvelously they receive you and what a wonderful situation it is, all I can tell you is this Nation gets the short end of this deal and the IEA will continue to get it and I think that all of you who represent our country and who are making policy decisions are literally playing into their hands and

in my opinion, you do not really represent the best interests for the people of this country. Certainly not the consumers.

Mr. THOMAS. Thank you very much. I happen to be wearing a striped suit today, and I'm starting to sound like it, I'm afraid. Under the circumstances, with all due deference to my colleague to the left with the solid color suit, I would like to say that I want to assure that the record is correct and that I did not suggest that these were wonderful folks necessarily to do business with in all circumstances or that it's a holier than thou kind of situation.

We have our differences with them, Senator. We have a lot of differences with them and there is some tough bargaining involved in many respects to assure the protection of our domestic interest and our domestic security. That is one of the reasons that I serve with my colleagues from the Department of State on the Governing Board of the IEA. I think we are watching out for those domestic interests in a very serious and sustained fashion.

Maybe I would invite you to come to the next session that we have with the governing board to see how that works.

Senator METZENBAUM. Thank you.

Let me ask you one last question. You said you made a study about how these things went back and forth and how it protected our position. Do you have available that I might examine or the committee might examine the record of ship movements during the so-called Iranian crisis? I would be very interested to see exactly what were those ships that moved and how oil was transferred from one to the other and what indeed did occur. Do you have that available?

Mr. THOMAS. I can't speak specifically to that issue at this time. I know that indeed we did publish a report in July of 1980, a "Final Report to the President, of Oil Supply Shortages During 1979." To the extent that that responds to questions you posed, I'd like to submit that to the record for the Senators' consideration.

I would say that my comments were directly on the basis of my personal involvement of the last couple of months and our activities to look at ship movements at this time and the future.

The CHAIRMAN. We will receive the report for the file. I think we already have it, but I don't think it would serve a useful purpose to repeat all of those immortal words into the record.[1]

Senator METZENBAUM. Mr. Carr, in the latest Justice Department advisory report, Justice was concerned that companies participating in IEA have access to data that is not available to smaller domestic oil companies, thereby creating a special antitrust problem. What does Justice propose to do to remedy this problem?

Mr. CARR. One proposal we have suggested is that the information be made available generally, and not be confined simply to the participants.

Senator METZENBAUM. Do you think that will hurt?

Mr. CARR. We think that the Department of Energy and the Department of State will follow up on it, and we think it would resolve the difficulty we have.

Senator METZENBAUM. Do you think they will follow up on it?

---

[1] "Final Report to the President on Oil Supply Shortages During 1979," DOE/S-0011 submitted by Mr. Thomas has been retained in committee files.

Mr. CARR. We will continue to urge the point.

Senator METZENBAUM. Will they have to ask Dave Stockman what they can do?

Mr. CARR. I'm not sure.

Senator METZENBAUM. Why do companies need an antitrust defense to submit information to the IEA? In other words, why do companies fact the risk of any trust prosecution merely by supplying data to the IEA? That wouldn't violate anything.

Mr. CARR. The difficulty is that, in some situations, as you know, information exchange can result in distortions of competitive markets. I think the fear that the oil companies have with respect to the kinds of information they submit is that some argument could be made or a case brought on the theory that the information exchange does, indeed, and was intended to, result in competitive distortions.

Senator METZENBAUM. Do you know there are coal companies that participate in the coal industry advisory board? Nobody has ever suggested that there be an antitrust action brought against them for that participation.

Mr. CARR. So long as the information is very carefully restricted, as indeed we think it has been so far in oil company participation in the IEA, there is no ground for antitrust concern. But at the same time, I think there has been a concern, perhaps in Congress itself, that it is often possible that permissible activities merge into impermissible activities and the line sometimes is not very clear. The assurance provided by the antitrust defense gives a guarantee to the companies that the problem will not arise.

Moreover, the participation of the Department of Justice in monitoring those activities and monitoring the information exchange gives the assurance, not only to the companies but to Congress and the public, that the phenomenon that I described has not occurred.

Senator METZENBAUM. Mr. Johnston, I thought, was very candid and open about the fact that at the present time the language of the statute, although he didn't use these words, but the conclusion that would have to be reached is that the language of the statute was not being abided by as far as the question of making this information available. And I thought you were very frank in your response, and I commend you for that.

I want to say to the chairman, however, it seems to me that because a witness, even one as respectable and able as Mr. Johnston, tells us that the law is being violated, hardly provides a basis for us on this committee to consider changing the law in order to see to it that it doesn't violate the law anymore, or he and his fellow workers in the Department of State. It seems to me that it's their responsibility to abide by the law and if they can't then to come forward. But instead of that what we're told is that the law is being violated.

Mr. JOHNSTON. What I say, you don't hear. What the provision says——

Senator METZENBAUM. If you would speak a little northernese I could understand.

Mr. JOHNSTON. Senator, I've always had a special feeling for Ohio. My wife went to school there and then you all kept my great

grandfather prisoner there in about 1863. But apart from that it goes all right.

Senator METZENBAUM. We treated him well. We gave him bread and water.

Mr. JOHNSTON. EPCA 252 says that such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

I don't think we're violating that law. But I do understand what the chairman has said in regard to the political realities.

Senator METZENBAUM. I thank you and I'm going to excuse myself.

The CHAIRMAN. Thank you very much.

I will not prolong this.

I couldn't help but think to myself as the Senator from Ohio was talking about the failure of the agency, the IEA, and our participation in it to achieve what we wanted, that in certain sections of my State as I go around I still see billboards that say, "Get the U.S. out of the U.N."

Senator METZENBAUM. That's what I was thinking. It's very interesting to see some of the isolationists of this Congress who are such active internationalists in connection with this matter.

The CHAIRMAN. And vice versa.

One final question for the record. Is there not a real problem that we have in this country in general trade matters, which we operate under far different rules than many foreign countries do? And it's particularly true with respect to petroleum. We have a lot of international oil companies either producing and selling or purchasing and distributing. Is that not the case?

Mr. JOHNSTON. If I understand, you're asking whether or not the condition in this country is different from that of other countries. Yes, it certainly is. Because we are, in the first place, the seat of the five of seven sisters. We are thus the corporate headquarters for the biggest of the multinationals. And we also have a system which relies on independent companies to a much larger extent than many countries do.

The CHAIRMAN. Since this country, dealing through a multitude of energy producers and importers, deals with other countries which have a single entity, does that place our consumers at a competitive disadvantage with respect to the knowledge of what is going on and the ability to influence those affairs?

Mr. JOHNSTON. I'm not sure I understand what you are aiming at. For example, when I was in Spain 15 years ago there really was one oil monopoly. Now I suppose any American could have picked up the annual report of that organization and found out a good bit of what was going on. You have to pick up an awful lot of reports in this country to find out what's going on.

If you mean we'll get more information that you wouldn't otherwise have had on the United States, maybe there is something in that.

The CHAIRMAN. I'm not looking just at information. I'm looking at the policy choices. In any course of events throughout the world, we have dozens of different entitites responding to those international events. Other countries may have one single governmental entity responding to those international events. Would you care to comment?

Mr. THOMAS. Yes, I think I can somewhat on that, Mr. Chairman. When we are dealing with several of the countries that are members of the IEA, in fact, there is often a single governmental body and in many cases a single national oil company involved. The policies, of course, of the Government are closely reflected by the actions or inactions of that single oil entity that they have. And so their responsiveness can be much more rapid in many respects than ours is.

When it comes to an information exchange, one of our problems that I think does exist here perhaps, is that there is proprietary information of a substantial nature involved. You've just heard from my colleague from the State Department that indeed the seat of many of the major multinationals is here. So we try to safeguard that information very carefully. We try to run that information, and in fact do run that information through the Government, and we in turn deliver it in aggregated form to the IEA and other parties.

And by that it means we try to tend to control, through governmental interaction, the use of that information and its availability to others who would make competitive use of it.

The CHAIRMAN. Let me relate my concern to the second of the two questions I intended to inject here at the end of this hearing this morning. In the event of any supply disruption or perceived or expected supply disruption, there is a great scrambling for supply throughout the world. It is not just individuals who, like many, may have put in more storage capacity, or the people who have storage capacity and top off their tanks continually. There certainly is, in any such instance, a rather artificial demand situation created as everybody scrambles for those supplies.

I think maybe Senator Metzenbaum was tending in that direction a little earlier when he was talking about what happened in 1979 when the Iranian supplies were cut off. As people bid for supplies, the apparent demand was much greater than real demand. Or at least greater than consumption, because the demand for building inventories and the demand for holding inventories was very real.

In this country we have dozens of entities trying to build inventory, trying to manage inventory. Perhaps even trying to hoard. In many foreign governments you have a single governmental entity, acting for national policy and not individual policy, that might say, we're going to make sure we have enough in our country to take care of our own citizens' demands. To hell with the rest of the world.

I thought I heard a little of that expressed here this morning. But these counties have the entity in which they can do it and in a much more direct way than we can. Is that not correct?

Mr. THOMAS. That is correct in many respects, and that is one of the things where your more perfect information permits you to respond in this international forum to just that kind of shenanigans, if that is what in fact is occurring. That is where the more perfect information, the manner in which we collect that information, and the manner in which we let others know about what is transpiring in the marketplace. What are their stock levels at the time the disruption occurs? What is their anticipated demand? We have a history on what their demand will have been up to that point. Then we can get a pretty good handle, Mr. Chairman, on what is en route to them, as well, and whether or not additional, for example, tankers are being turned to move to them that would start to build up those kinds of stock in expectation and in excess of what they might normally have had under the circumstances.

That is part of the negotiation process that we go through after we have established the best possible data base against which to work. Then we can call those shots.

Mr. JOHNSTON. Could I add a little on that? I think the fact that there are some countries that like to pursue national goals through public monopoly corporations is just a fundamental difference between this country and other countries. That's not something most Americans would like to have.

Looking at the 1979 affair after the fact, the loss of Iranian oil produced a shortage of something like 2 million barrels per day under consumption. But as the situation progressed, nobody knew how long it was going to last and everybody tried to insure themselves.

I really don't like to call that hoarding. I think people get very cautious when they see a supply shortage like that. They don't know whether it's going to be finished in 2 weeks or 10 weeks or 1½ years and so they consequently buy; well that may be a sensible selfish decision, but it's a very poor collective decision. With the information we now have we are able to judge that much more was going into stocks than needed to be. That was the wrong time to be building up stocks. Maybe we can do a little bit better the next time.

The CHAIRMAN. Over a longer period of time that evens itself out because their consumption doesn't increase. Their immediate demand for supply increases, and at a later period when the shortage is over, they'll draw down on those stocks and they will underdemand the market, even though their consumption doesn't change. Their apparent consumption in terms of demand will change.

Mr. JOHNSTON. Because incorrect actions were taken in 1979 because of the Iranian affair, stocks were much larger than they needed to be when the affair was over. However, it was the existence of those larger stocks that kept the Iraq-Iranian affair from penalizing us the following year.

The CHAIRMAN. We did draw down in that period of time. We also had some mechanisms in place that reduced the fear a little, and fear drives that kind of building of inventory, if that's all it is,

and where you draw the line between prudent buildup of stocks and hoarding, is hard to know.

I remember the reports, however, of one popular singer in the United States, who at an earlier period put in a 5,000-gallon tank for gasoline at his mountain retreat, west of Denver. I doubt very much that he drives enough that he could really use 5,000 gallons of gasoline in any one period of time. I suspect that may have been not just prudent inventory increasing, but some degree of hoarding. He didn't care about what was going to happen to somebody else, he's going to have enough gas. An awful lot of people did that sort of thing. It happens every time there is a perceived crisis I've often repeated the time when we had the great toilet paper scare here. I've been here that long. There was no real shortage, but there were a lot of published reports that there wasn't going to be enough toilet paper. I was down at the local supermarket at Arlington, Va. The proverbial little old lady in tennis shoes came walking out with a guy behind her carrying 10 cartons of toilet paper.

She couldn't possibly have lived long enough to use that. But that's what happens. The minute that happens the supply which was submarginal in the first place, becomes critical. And market mechanisms do not work well in the period of time. That little old lady was really not making a market choice. She was responding irrationally, just as I think that singer was responding irrationally in buying 5,000 gallons of gasoline.

But his action and the collective actions of many other people made a marginal situation very very much worse. The panic that ensues from the very small shortage has the leverage on the market, resulting in the doubling of prices of oil. And I think it is prudent for us to have some kind of a mechanism to blunt those forces while still allowing the market to work where the market can work and does work best. That's one of the reasons I was concerned when we began to see some type of subcrisis mechanism beginning to evolve through the IEA. I'm glad to see that we took prompt and firm steps to say, oh, no, we're not going to do that. That's where I understand we are now with respect to some subcrisis management. I'm grateful that that action was taken.

The system may not be perfect. I would be the last one to say that it is. But that is compared to what? It's compared to the perfection that we would desire.

I sometimes remind people in political races, they ought not to be looking at whether or not I'm the perfect Senator, just compare me to that bum I'm running against, and I think the same thing is true here. This may not be a perfect system, but what would we have if we didn't have it? And what would be the consequences of having nothing.

I hope we never become so stuck on that point that we fail to see its imperfections and fail to try to improve, but it would be equally wrong in my judgment to go to the opposite extreme and look only at its imperfections and decide to throw it away without any substitute in mind at all, without any care for the consequences of what would happen if we had nothing.

I thank you for your testimony this morning, and I appreciate it very much.

I have questions from Senator Jackson directed to Secretary Thomas and Secretary Johnston. Those questions will be submitted for the record, and the answers when received will be made a part of the record.[1]

If there is nothing further to come before the committee, we stand adjourned.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

[1] See appendix, p. 71.

# APPENDIX

## RESPONSES TO ADDITIONAL QUESTIONS

Department of Energy
Washington, D.C. 20585

February 23, 1982

Honorable Henry M. Jackson
United States Senate
Suite 137 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Jackson:

Enclosed are the answers to questions you submitted to Henry E. Thomas, Assistant Secretary for International Affairs, Department of Energy, subsequent to the February 4, 1982, hearing on S. 1937.

Copies of the enclosed information have been sent to the Committee for the official record.

If you have any questions, please call Ingrid Nelson or Tom Pretorius of my staff on 252-4277. They will be happy to assist you.

Sincerely,

for Thomas H. Pretorius

Robert G. Rabben
Assistant General Counsel
for Legislation

Enclosures

# QUESTIONS

Submitted Subsequent

to the

FEBRUARY 4, 1982, HEARING
on S. 1937

Before the

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

HENRY E. THOMAS WITNESS

Question: On pages 7-8 of your statement, you cite several specific examples of IEA activity, and say oil company participation has been essential in each case.

-- Please describe for the Committee what has been accomplished by the IEA bureaucracy in each case; and

-- What unique contribution the oil company representatives have made in each of the instances cited.

Answer: Iran-Iraq Conflict

Following the outbreak of war between Iran and Iraq in September 1980, the IEA Secretariat expanded its efforts to monitor developments in the international oil market. In response to an IEA request, the U.S. Government granted antitrust approval for U.S. oil companies to submit Questionnaire A (QA, a form containing data on stocks and movements of oil within the company's system) on a monthly basis to the IEA. From September 1980 until June 30, 1981,* when the approval for submission of QA expired, the IEA Secretariat was able to closely watch movements of oil within the international system and to report its findings to IEA member governments.

The IEA Secretariat provided further support to the member countries by studying problems in the international oil market and by formulating possible solutions. These studies served as the basis for discussions between the IEA member countries at Governing Board meetings in October and December 1980. The Governing Board decided at the October meeting that the member countries should discourage abnormal purchases on the spot market, consult with oil companies to encourage drawing down of stocks to balance supply and demand, continue to consult with other IEA member countries to ensure consistent and fair implementation of these policies, and reinforce conservation and fuel switching measures. At the December meeting, the Governing Board decided to establish procedures for use in the first quarter of 1981 by which the Secretariat, when it determined that supply imbalances existed, could consult with companies and governments to identify possible measures for alleviating the imbalances. The Secretariat could then communicate these measures to the governments concerned or to the Governing Board so that appropriate action could be taken. The Secretariat's role during the Iran-Iraq hostilities can thus be described as one of collecting data, analyzing oil market developments, recommending to the governments of the member countries possible solutions to oil market problems, and facilitating communication among IEA member countries and between governments and industry.

* U.S. antitrust approval for QA had been suspended as of July 1, 1980, since the emergency related to the Iranian Revolution no longer appeared imminent. The approval was reissued upon the outbreak of war between Iran and Iraq in late September 1980.

The oil companies played a vital role by providing supply data and forecasts to the IEA Secretariat and by assessing, in the course of regularly scheduled industry advisory group meetings, the validity of aggregated data and forecasts prepared by the IEA. In addition, through the principal industry advisory bodies and the standing groups of the IEA, the oil companies provided valuable advice concerning problems in the international oil market and possible corrective actions. Finally, individual oil companies were consulted by and cooperated with the U.S. Government in its efforts to identify oil supplies that might be made available for sale by companies to Turkey, following that country's request for IEA assistance to overcome its oil supply shortfall, caused in part by losses of Iraqi crude oil.

AST-3

The IEP is founded upon the principle of voluntary company participation in the Emergency Sharing System. Thus, company participation in system tests is essential. The IEA Secretariat and the participating companies played an important support role during the Third Allocation System Test, as they would in a real crisis. The Executive Director of the IEA, the Chairman of the Standing Group on Emergency Questions (SEQ), and the Chairman of the companies' Industry Advisory Board (IAB) comprised the Control Group, which selected the hypothetical disruption scenarios that were used in the test. The IEA Director of Emergency Planning and Preparation managed the daily operation of AST-3 in his role as Allocation Coordinator. He was assisted by other Secretariat personnel, who provided administrative, data processing and analytic assistance.

After being informed of the hypothetical supply disruption, Reporting Companies submitted to their host governments and to the IEA oil supply data on QA. The IEA Secretariat, with assistance from the Industry Supply Advisory Group (ISAG), scrutinized the data and attempted to reconcile any discrepancies, errors or anomalies found. The Secretariat then computed supply rights and allocation rights and obligations according to the IEP oil sharing formula. The results of these computations were transmitted to the member country governments and to the Reporting Companies.

On the basis of country supply rights and allocation rights and obligations, the Reporting Companies worked to simulate the transfer of oil within their own systems or the voluntary offer of oil for transfer to other companies. All of these simulated transfers were coordinated through the ISAG, under the direction of the Allocation Coordinator. When the voluntary offers received were insufficient to correct the imbalance, the ISAG solicited additional offers from Reporting Companies and from member country governments, which in turn could go to their countries' Non-Reporting Companies. Throughout this process, the Secretariat continued to gather, correct, and analyze hypothetical oil supply data.

Following AST-3, both the Secretariat and the oil companies provided valuable appraisals of the test. While certain problems related to data gathering, pricing, and national programs and laws were found, it was generally concluded that AST-3 demonstrated that the Emergency Oil Sharing System is workable. By identifying problem areas, the test served to direct the work of the Secretariat, the SEQ, the industry advisory bodies, and the member governments. During the period since AST-3, remedies to many of the problems identified have been built into the Emergency Sharing System. These in turn will be tested and refined in AST-4.

Non-Emergency Oil Monitoring System

The United States has been adamant that the Emergency Data System, which includes some competitively sensitive company specific information, should be used only in times of an actual or incipient oil supply emergency. At the same time, it has been recognized that short-term forward estimates of oil supplies are essential to the ongoing, non-emergency monitoring of the oil market agreed upon in the December 1981 Governing Board decision. The SEQ Ad Hoc Group on the Emergency Data System began working on this problem early in 1981.

Separate proposals for a non-emergency data system were submitted by the Ad Hoc Group, one petroleum company, the IAB, and the Secretariat. The proposal finally chosen, after lengthy consultations between the companies, governments and the IEA, calls for the submission of a Monthly Country Report that, in keeping with the opinion of the IAB and of the United States, includes only essential, non-proprietary, aggregated data, and minimizes the reporting burden. Under the new system, companies will report to their host government, not to the IEA, and governments will report projected oil operations in national totals only. This report is compatible with both OECD historical data and with the Emergency Data System.

The IEA also monitors the oil market in the absence of an emergency through the receipt of Monthly Oil Statistics. Member country governments aggregate national historical data on production, imports, exports, consumption and stocks, and submit this data on a monthly basis. The oil companies provide data for use by their host countries in the preparation of the report, and the Secretariat aggregates the reports received from the member countries and prepares an IEA-wide Monthly Oil Statistic report.

Dispute Settlement Centre

The Centre is intended as a facility for arbitration of disputes between parties, other than nations, t international oil supply transactions resulting from implementation of the emergency oil allocation provisions of the International Energy Program. The Charter establishing the IEA Dispute Settlement Centre was adopted by the IEA Governing Board on July 23, 1980; Rules of Procedure were adopted by the Governing Board on July 21, 1981.

The Dispute Settlement Centre was first proposed by the oil companies through the IAB and its Subcommittee C. The oil companies participated in an Ad Hoc Working Group, that was made up of representatives of governments, companies and the Secretariat, to develop the proposed Charter and Rules of Procedure, which were later adopted by the Governing Board. The arbitration procedures are based on established international law and resemble procedures employed in other international arbitration bodies.

Other Technical Issues

The member countries and the Secretariat of the IEA are continuously refining and improving various elements of the IEP. The industry advisory bodies provide valuable support to this effort by analyzing problems and suggesting possible solutions. Recent issues addressed within the IEA include:

- pricing of oil supplies allocated during an activation of the Emergency Sharing System;
- the impact that destination restrictions imposed by oil exporting countries have on international oil markets and on the Emergency Sharing System;
- timing of activation of the Emergency Sharing System;
- reporting of data on oil stocks at sea;
- reserves needed to maintain stocks levels at 90 days of net imports; and
- the inclusion of petrochemical naphtha in emergency reserves.

Question: You talk about the IEA "sub-trigger" supply problem proposals on pages 8-9 of your statement.

-- Please explain what the "sub-trigger" supply problem proposals are.

Answer: Since the Agreement on an International Energy Program (IEP) was adopted in 1974, IEA member countries suffered two serious reductions in oil supply (early 1979 and late 1980) which were not deemed of sufficient magnitude to justify activation of the IEA Emergency Sharing System. These shortfalls prompted a review of the IEP agreement and, in particular, the response of the IEA to such future "sub-trigger" situations, as shortfalls below the 7-percent trigger threshold came to be known. This review was undertaken early in 1981 and culminated in the December 1981 IEA Governing Board Decision on Preparation for Future Supply Disruptions, described in the February 4 Statement submitted to the Committee by Assistant Secretary Henry E. Thomas. During the course of the 1981 IEP Review, a variety of possible proposals emerged: a continuation of informal measures such as those which had been adopted in 1979 and 1980; various market-monitoring data systems; stock pooling and stock sharing schemes; and modifications to the IEP Emergency Sharing System. IEA countries subsequently rejected any formal interventionist mechanisms in dealing with sub-trigger situations, and decided instead, as evidenced in the December 1981 Decision, to:

- allow market forces to operate and to strengthen them where necessary to improve the supply/demand balance and the distribution of oil in short supply;

- meet promptly to consider and decide on what supplementary action, if any, is necessary;

- monitor continously oil supply, demand and stocks of IEA countries and worldwide to assess accurately and in a timely manner the nature, extent and probable impact of supply disruptions.

The other proposals which were reviewed, but were not ultimately adopted, are summarized briefly below under several major categories:

Informal Short-Term Measures

One of the proposals to deal with sub-trigger supply situations was to continue the type of informal short-term measures which had been adopted in response to the Iran/Iraq war in the last quarter of 1980 and the first quarter of 1981. These measures had included:

- drawing down stocks as necessary to balance supply and demand;

- discouraging undesirable purchases of oil at price levels which might have the effect of increasing market pressures;

- encouraging the efficient use of oil;

- encouraging high levels of indigenous energy production; and

- correcting country supply imbalances through an informal system.

None of these measures were extended beyond the first quarter of 1981, although IEA countries at the December 1981 Governing Board agreed that these types of measures could be among those which might be considered in future subtrigger situations.

Stock Policies

A number of stock management policies were proposed. Through the European Community, the French, who are not IEA members, proposed a European Community oil stock pool for use in certain circumstances. In the IEA, the Italians proposed oil stock "pools" which could be drawn on by participants to alleviate supply difficulties in situations where the IEA emergency trigger had not been pulled. Contributions to the stock pool would be made either on the basis of a given number of days of the prior year's consumption (the French proposal) or a given percentage of compulsory stocks (the Italian proposal).

The IEA Secretariat suggested various other possible stock management schemes for IEA member country consideration including the establishment of a zone of "flexible" stocks which IEA countries might be required to hold over and above the 90-day emergency requirement and which would be reduced (raised) in tight (slack) markets to smooth out market fluctuations; dedication of some portion (in days or percentage terms) of stocks already held (either above or within the 90-day emergency reserve requirement) which would be available for "drawing" by particular countries in supply difficulty; or the establishment of a "buffer" stock which could be used to supplement supply either in the general market or in particular countries in need.

Due to strong opposition to such formal interventionist mechanisms by many IEA countries, including the United States, none of these stock proposals have been adopted.

Modifications of the IEP System

A number of proposals were made to change the IEP system. Some of the options suggested but not adopted were:

- inclusion of oil stocks held above emergency requirements in calculations of oil available to fulfill allocation obligations resulting from activation of the Emergency Sharing System;

- modification of the base period used in the Emergency Sharing System;

- redefinition of the IEA emergency reserve requirement to provide greater reserve coverage; and

- adjustment of supply right calculations under the Emergency System to reflect stock use in sub-trigger situations preceding emergency activation.

Question: -- The December Decision paper says there is "Agreement among IEA countries that they will meet promptly to consider and decide on what action, if any, is necessary to supplement market forces; ..." What does this mean?

Answer: The agreement in essence commits the U.S. and other countries to consult in the event of future disruptions and to consider what mitigating actions might be appropriate. It does not commit the U.S. to any predetermined actions in such circumstances. The Administration remains committed to reliance on market forces in responding to future disruptions.

The following statement was made by the U.S. Delegation to the December Governing Board to clarify the U.S. understanding of the Decision:

"The United States welcomes this Decision. At the same time we must state for the record our understanding of it. The United States remains committed to reliance on free market forces as the most effective response to supply disruptions. We are pleased to note the inclusion of this thought in the preamble to the Decision as a guiding principle for IEA discussions of market disruptions. The Decision establishes a basis for future IEA consultations in the event of sub-trigger supply disruptions. However, it does not commit IEA countries in advance as to the specific actions which they might take in such circumstances. Moreover, we note the fact that any actions taken in response to future disruptions must be consistent with national law and the Agreement on an International Energy Program, and that this may vary from country-to-country."

Questions: -- What did Italy and Turkey want to do?

Answer: During the course of the IEA deliberations on sub-trigger situations, Italy made a proposal for revising the IEA oil sharing system which included a relaxation of the 7 percent minimum threshold for activation of the emergency system and creation of an oil stock pool for allocation to countries in need. Although most IEA members, such as the U.S., rejected such formal stock pooling schemes, several IEA countries, including Turkey, Spain, Portugal and Greece, supported proposals such as the Italian one.

The Italian proposal, presented at the November 21, 1980, Governing Board meeting, suggested that the IEP be restructured to:

- abolish the 7 percent trigger threshold so that the system could be activated in disturbances short of seven percent;

- enable the IEA Governing Board to mandate product allocations to members experiencing product shortages; and

- make available 5 percent of each IEA member country's compulsory oil stocks to the IEA Governing Board for possible allocations to redress market imbalances.

Question: -- Will the United States advocate use of domestic oil stocks--including oil in the Strategic Petroleum Reserve--to moderate price increases if we have an embargo?

Answer: Existing law permits the President to draw down the Strategic Petroleum Reserve only in case of a severe energy supply interruption (which could be caused by an embargo), or if necessary to meet U.S. IEP obligations.

The United States has stressed the importance of primary reliance on market forces to respond to minor or "sub-trigger" crises. We would expect that private domestic stocks would respond to market forces. The Administration also continues to believe that the best way to prepare for more severe oil crises is to ensure that strategic oil stocks are high and to seek conditions conducive to the building of private stocks.

Department of Energy
Washington, D.C. 20585

June 4, 1982

Honorable Henry M. Jackson
United States Senate
Washington, D.C. 20510

Dear Senator Jackson:

Enclosed are answers to two questions you submitted to the State Department Witness following the February 4, 1982, hearing before the Committee on Energy and Natural Resources. The State Department has asked the Department of Energy to respond on these particular questions. Mr. Henry E. Thomas, Assistant Secretary for International Affairs, Department of Energy, testified on that date regarding S. 1937, IEA Agreement, Trust and Oil Sharing Agreement.

A copy of the enclosed information has been sent to the Committee for the official record.

If you have any questions, please call Ingrid Nelson or Tom Pretorius of my staff on 252-4277. They will be happy to assist you.

Sincerely,

Robert G. Rabben
Assistant General Counsel
for Legislation

Enclosures

cc: Mr. David Doane
Committee on Energy
and Natural Resources

QUESTION 1: Your Statement discusses the idea that maintenance of reserve supplies could mitigate price increases in times of a disruption. What is this Administration's policy on the use of domestic oil stocks--including oil in the Strategic Petroleum Reserve--to moderate price increases if we have an embargo?

ANSWER: The Administration has no specific policy involving the use of petroleum stockpiles, either private or public, expressly for the purpose of moderating price increases. However, the following points are relevant to this issue:

- The Energy Policy and Conservation Act permits the President to draw down the SPR only to deal with a "severe energy supply interruption," or if necessary to meet U.S. obligations under the Agreement on an International Energy Program. Of course, one effect of injecting SPR crude oil supplies into the marketplace should be to moderate price increases.

- There is no existing statutory authority to control privately owned stocks. Of course, the principal protection of law resides in the U.S. Constitutional prohibitions against the taking of property without due process of law and adequate compensation.

- The Department has no intention of interfering with the use of private stocks. When the SPR is used, it will be added to the general marketplace like any other source of oil, without interfering with the operations of the energy supply and distribution system.

Question 2: Your statement emphasizes what you call one of the Keystones of the Reagan Administration's oil crisis preparedness strategy as maintenance of large emergency oil reserves. Yet I understand the FY 83 budget proposal includes a $1.5 billion cut in the SPR program. It will also include less than half the money the DOE wanted for storage facilities construction.

How can you explain this inconsistency?

Answer 2: There is no inconsistency. A year-to-date comparison of SPR budget authority can be misleading. The best single measure of SPR program progress is cumulative fill, and the President's FY 1983 budget will permit an expansion of the SPR oil inventory in FY 1983 by 76 million barrels (MMB) to the full level permitted by available permanent storage capacity. FY 1983 new oil budget authority is down $1.6 billion from FY 1982 because we have reduced our projection of oil prices, increasing the purchasing power of FY 1982 funds to buy oil for delivery in FY 1983.

Since our existing appropriations through FY 1982 will permit contracting for a cumulative 336 million barrels, we are nearly in a position to fill the SPR storage capacity through the end of FY 1983 using only FY 1982 and prior year funding. The substantial purchasing power of our FY 1982 and prior year funds explains why the oil acquisiton appropriations proposed for FY 1983 are significantly below the FY 1982 budget authority level. Actual outlays are expected to be approximately the same in FY 1982 and FY 1983, in the range of $2.8 billion in each year, which further illustrates that we continue to put priority on filling the SPR.

The reduction in the FY 1983 request for facilities is entirely a result of a decision to delay by one year the development of 140 million barrels of Phase III capacity at the proposed Big Hill site, Texas. The slippage of the Big Hill development schedule represents a trade-off between near term Federal budget limitations and our long term emergency preparedness objectives. It should be noted that this action will have no effect on SPR capacity availability or fill rate until FY 1987.

6/4/82

○